No. 1375

United States Circuit Court of Appeals

FOR THE NINTH CIRCUIT.

PACIFIC MAIL STEAMSHIP COMPANY,
Appellant,

vs.

ALFRED IVERSON, JOHN KENNEDY, PATRICK MURPHY, THOMAS ROE AND GEORGE MORRISSEY,
Appellees.

Transcript of Record.

Upon Appeal from the United States District Court for the Territory of Hawaii.

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INDEX.

Page

Affidavit of E. B. McClanahan..... 519
Affidavit of F. W. Klebahn (No. 62)..... 495
Affidavit of F. W. Klebahn (No. 63) 504
Affidavit of F. W. Klebahn (No. 64)..... 500
Affidavit of F. W. Klebahn (No. 66)..... 508
Affidavit of F. W. Klebahn (No. 67)..... 512
Answer of Defendant, Pacific Mail Steamship Company to Libel of Alfred Iverson..... 20
Answer of Defendant, Pacific Mail Steamship Company, to Libel of John Kennedy..... 34
Answer of Defendant, Pacific Mail Steamship Company, to Libel of George M. Morrissey 79
Answer of Defendant, Pacific Mail Steamship Company, to Libel of Patrick Murphy 49
Answer of Defendant, Pacific Mail Steamship Company, to Libel of Thomas Roe..... 64
Assignment of Error, Exception and Additional 540
Assignment of Errors..... 532
Bond on Appeal 537
Certificate, Clerk's, to Transcript..... 542
Citation..... 544
Citation in re Alfred Iverson..... 18
Citation in re John Kennedy..... 32

Page

Citation in re George M. Morrissey..... 77
Citation in re Patrick Murphy..... 47
Citation in re Thomas Roe..... 62
Clerk's Certificate to Transcript..... 542
Costs, Decision on Motion to Retax..... 454
Decision on Motion to Retax Costs..... 454
Decision on Motion to Retax Costs in Nos. 62, 63, 64, 66, 67..... 514
Decree (No. 62)..... 468
Decree (No. 63)..... 473
Decree (No. 64)..... 471
Decree (No. 66)..... 476
Decree (No. 67)..... 479
Depositions on Behalf of Libelants:
Alfred Iverson..... 118
Alfred Iverson (cross-examination)..... 127
Alfred Iverson (redirect examination)..... 168
John Kennedy..... 203
John Kennedy (cross-examination)..... 211
John Kennedy (redirect examination)..... 241
George M. Morrissey..... 244
George M. Morrissey (cross-examination)..... 251
George M. Morrissey (redirect examination)..... 263
Patrick Murphy..... 170
Patrick Murphy (cross-examination)..... 178
Patrick Murphy (redirect examination)..... 198

Page

Depositions on Behalf of Libelants, (Continued):
Patrick Murphy (recross-examination).... 202
Thomas Roe..... 264
Thomas Roe (cross-examination)..... 271
Thomas Roe (redirect examination)..... 275
Depositions on Behalf of Libelee:
Louis Alonzo..... 324
Louis Alonzo (cross-examination).. 325
Louis Alonzo (redirect examination)..... 326
Jose Fernandez..... 335
Francisco Guardado..... 321
Francisco Guardado (cross-examination).. 323
W. Isaac.. 363
W. Isaac (cross-examination)..... 364
Harry Jensen.... 301
Harry Jensen (cross-examination)..... 307
Harry Jensen (redirect examination)..... 308
Harry Jensen (recross-examination)..... 309
Harry Jensen (redirect examination)..... 309
Harry Jensen (recross-examination) 310
Domingo Martinez..... 329
Domingo Martinez (cross-examination)... 330
Joseph Medina 331
Joseph Medina (cross-examination).. 333
Joseph Medina (redirect examination).... 335
Charles A. Miller.. 276
Charles A. Miller (cross-examination).... 289
Charles A. Miller (redirect examination).. 300

Page

Depositions on Behalf of Libelee, (Continued):
J. Ramo 311
J. Ramo (cross-examination) 313
J. Ramo (redirect examination) 314
J. Ramo (recross-examination) 315
A. E. Rennie 338
A. E. Rennie (cross-examination) 345
A. E. Rennie (redirect examination) 348
A. E. Rennie (recross-examination) 350
Edward Rosas 327
Edward Rosas (cross-examination) 328
Max Thorschmidt 367
Max Thorschmidt (cross-examination) 370
T. De La Torre 316
T. De La Torre (cross-examination) 319
T. De La Torre (redirect examination) 320
Charles Trome 352
Charles Trome (cross-examination) 357
Exception and Additional Assignment of Error. 540
Exhibit "A," Libelee's (Power of Attorney from Alfred Iverson, Thomas Roe, Harry Miller, Patrick Murphy, John Kennedy, George M. Morrissey and Harry Baker to Charles F. Chillingworth) 546
Exhibit No. 1, Plaintiff's (Steerage Check Issued by the Pacific Mail Steamship Company for Passage on Steamer "Mongolia," in name of Alfred Iverson) 120

Page

Libelee's Exhibit "A" (Power of Attorney from Alfred Iverson, Thomas Roe, Harry Miller, Patrick Murphy, John Kennedy, George M. Morrissey and Harry Baker to Charles F. Chillingworth) 546
Libel of Alfred Iverson..... 12
Libel of Alfred Iverson, Answer of Defendant, Pacific Mail Steamship Company to..... 20
Libel of John Kennedy..... 26
Libel of John Kennedy, Answer of Defendant, Pacific Mail Steamship Company to..... 34
Libel of George M. Morrissey..... 71
Libel of George M. Morrissey, Answer of Defendant, Pacific Mail Steamship Company to 79
Libel of Patrick Murphy..... 41
Libel of Patrick Murphy, Answer of Defendant Pacific Mail Steamship Company to..... 49
Libel of Thomas Roe..... 56
Libel of Thomas Roe, Answer of Defendant, Pacific Mail Steamship Company to..... 64
Memorandum of Costs and Disbursements (No. 62) 481
Memorandum of Costs and Disbursements (No. 63)..... 486
Memorandum of Costs and Disbursements (No. 64) 483

Page

Memorandum of Costs and Disbursements (No. 66) 488
Memorandum of Costs and Disbursements (No. 67) 490
Motion for Consolidation 517
Motion to Retax Costs, Decision on 454
Motion to Retax Costs in Nos. 62, 63, 64, 66, 67, Decision on 514
Motion to Retax Costs (No. 62) 492
Motion to Retax Costs (No. 63) 502
Motion to Retax Costs (No. 64) 497
Motion to Retax Costs (No. 66) 506
Motion to Retax Costs (No. 67) 510
Notice 517
Notice 526
Notice (No. 62) 495
Notice (No. 63) 503
Notice (No. 64) 499
Notice (No. 66) 507
Notice (No. 67) 512
Notice of Appeal (Nos. 62, 63, 64, 66, 67) 524
Notice of Appeal (No. 62) 466
Notice of Appeal (No. 63) 467
Notice of Appeal (No. 64) 466
Notice of Appeal (No. 66) 467
Notice of Appeal (No. 67) 468

Page

Order Allowing Appeal (Nos. 62, 63, 64, 66, 67) 520
Order as to Taxation of Costs 522
Order Extending Time to Transmit Transcript of Record (June 4, 1906)..... 1
Order Extending Time to Transmit Transcript of Record (July 2, 1906)..... 3
Order Extending Time to Transmit Transcript of Record (July 19, 1906)..... 6
Order Submitting Cause (No. 62)..... 450
Order Submitting Cause (No. 63)..... 451
Order Submitting Cause (No. 64)..... 450
Order Submitting Cause (No. 66)..... 451
Order Submitting Cause (No. 67)..... 452
Petition on Appeal..... 528
Plaintiff's Exhibit No. 1 (Steerage Check Issued by the Pacific Mail Steamship Company for Passage on Steamer "Mongolia," in name of Alfred Iverson)..... 120
Statement..... 8
Testimony on Behalf of Libelants:
Charles F. Chillingworth..... 92
Charles F. Chillingworth (cross-examination)..... 96
Charles F. Chillingworth (redirect examination)..... 112
Charles F. Chillingworth (recross-examination)..... 113

Page

Testimony on Behalf of Libelee:

Isaac Bray.. 396
Isaac Bray (cross-examination)..... 399
G. S. Curry..... 408
R. L. Halsey..... 403
R. L. Halsey (cross-examination).. 406
Dr. William C. Hobdy..... 372
Dr. William C. Hobdy (cross-examination) 384
Dr. William C. Hobdy (redirect examination)..... 389
Dr. William C. Hobdy (recross-examination)..... 391
Dr. William C. Hobdy (redirect examination)..... 394
Dr. William C. Hobdy (recross-examination)..... 395
F. W. Klebahn.... 413
F. W. Klebahn (cross-examination)..... 434
F. W. Klebahn (redirect examination).... 439
F. W. Klebahn (recalled)..... 445
H. L. Reilly.. 440
H. L. Reilly (cross-examination)..... 444
H. L. Reilly (redirect examination)..... 444
A. N. Sinclair.... 447
A. N. Sinclair (cross-examination)..... 449

Trial, Cause No. 62—Thursday, January 4, 1906) 86

Page

Trial (Cause No. 63—Thursday, January 4, 1906) 88
Trial (Cause No. 64—Thursday, January 4, 1906)..... 87
Trial (Cause No. 66—Thursday, January 4, 1906).... 89
Trial (Cause No. 67—Thursday, January 4, 1906) 90
Trial (Continued—Cause No. 62—Monday, January 8, 1906).... 115
Trial (Continued—Cause No. 63—Monday, January 8, 1906)..... 116
Trial (Continued—Cause No. 64—Monday, January 8, 1906).... 116
Trial (Continued—Cause No. 66—Monday, January 8, 1906).... 117
Trial (Continued—Cause No. 67—Monday, January 8, 1906).... 117
Trial (Continued—Cause No. 62—Tuesday, January 9, 1906)..... 400
Trial (Continued—Cause No. 63—Tuesday, January 9, 1906)..... 401
Trial (Continued—Cause No. 64—Tuesday, January 9, 1906)..... 401
Trial (Continued—Cause No. 66—Tuesday, January 9, 1906)..... 402
Trial (Continued—Cause No. 67—Tuesday, January 9, 1906)..... 402

In the District Court of the United States in and for the District and Territory of Hawaii.

April, A. D. 1906, Term.

IN ADMIRALTY—IN PERSONAM.

Consolidated for Purposes of Trial and Appeal.

No. 62.

ALFRED IVERSON,

Libelant-Appellee,

vs.

PACIFIC MAIL STEAMSHIP COMPANY,

Libelee-Appellant.

No. 64.

JOHN KENNEDY,

Libelant-Appellee,

vs.

PACIFIC MAIL STEAMSHIP COMPANY,

Libelee-Appellant.

No. 63.

PATRICK MURPHY,

Libelant-Appellee,

vs.

PACIFIC MAIL STEAMSHIP COMPANY,

Libelee-Appellant.

No. 66.

THOMAS ROE,

Libelant-Appellee,

vs.

PACIFIC MAIL STEAMSHIP COMPANY,

Libelee-Appellant.

No. 67.

GEORGE MORRISSEY,

Libelant-Appellee,

vs.

PACIFIC MAIL STEAMSHIP COMPANY,

Libelee-Appellant.

Order Extending Time to Transmit Transcript of Record.

Now, on this 4th day of June, A. D. 1906, it appearing from the representations of the clerk of this court that it is impracticable for said clerk of this court to prepare and transmit to the clerk of the United States Circuit Court of Appeals, at San Francisco, California, the transcript of the record on appeal in the above-entitled causes, consolidated for purposes of trial and appeal, within the time limited therefor by the citation heretofore issued in this cause, it is ordered that the time within which the clerk of this court shall prepare and transmit said transcript of the record on appeal, in these causes,

to the clerk of the United States Circuit Court of Appeals be, and the same is hereby, extended to July 9th, 1906.

SANFORD B. DOLE,
Judge U. S. District Court, Hawaii.

[Endorsed]: No. 62. United States District Court, Territory of Hawaii. Alfred Iverson, et al., vs. Pacific Mail Steamship Company. Order Extending Time to Transmit Record. Filed June 4, 1906. W. B. Maling, Clerk. By F. L. Hatch, Deputy Clerk.

In the District Court of the United States in and for the District and Territory of Hawaii.

April, A. D. 1906, Term.

IN ADMIRALTY —IN PERSONAM.

Consolidated for Purposes of Trial and Appeal.

No. 62.

ALFRED IVERSON,

Libelant-Appellee,

vs.

PACIFIC MAIL STEAMSHIP COMPANY,

Libelee-Appellant.

No. 64.

JOHN KENNEDY,

Libelant-Appellee,

vs.

PACIFIC MAIL STEAMSHIP COMPANY,

Libelee-Appellant.

No. 63.

PATRICK MURPHY,

Libelant-Appellee,

vs.

PACIFIC MAIL STEAMSHIP COMPANY,

Libelee-Appellant.

No. 66.

THOMAS ROE,

Libelant-Appellee,

vs.

PACIFIC MAIL STEAMSHIP COMPANY,

Libelee-Appellant.

No. 67.

GEORGE MORRISSEY,

Libelant-Appellee,

vs.

PACIFIC MAIL STEAMSHIP COMPANY,

Libelee-Appellant.

Order Extending Time to Transmit Transcript of Record.

Now, on this 2d day of July, A. D. 1906, it appearing from the representations of the clerk of this court that it is impracticable for the said clerk of this court to prepare and transmit to the clerk of the United States Circuit Court of Appeals, at San Francisco, California, the transcript of the record on appeal in the above-entitled causes, consolidated for purposes of trial and appeal, within the time limited by the order of extension dated June 4th, 1906, namely July 9th, 1906, made in these causes, now, therefore, it is hereby ordered that the time within which the clerk of this court shall prepare and transmit said transcript of the record on appeal, in these causes, to the clerk of the United States Circuit Court of Appeals, be, and the same is, hereby, extended to August 1, 1906.

Dated, Honolulu, Hawaii, July 2d, A. D. 1906.

SANFORD B. DOLE,

Judge, United States District Court, Hawaii.

[Endorsed]: No. 62. United States District Court, Territory of Hawaii. Alfred Iverson, et al., vs. Pacific Mail Steamship Company. Order Extending Time to Transmit Record on Appeal. Filed July 2d, 1906. W. B. Maling Clerk, By F. L. Hatch, Deputy Clerk.

In the District Court of the United States in and for the District and Territory of Hawaii.

April, A. D. 1906 Term.

IN ADMIRALTY—IN PERSONAM.

No. 62.

Consolidated for Purposes of Trial and Appeal.

ALFRED IVERSON,

Libelant-Appellee,

vs.

PACIFIC MAIL STEAMSHIP COMPANY,

Libelee-Appellant.

No. 64.

JOHN KENNEDY,

Libelant-Appellee,

vs.

PACIFIC MAIL STEAMSHIP COMPANY,

Libelee-Appellant.

No. 63.

PATRICK MURPHY,

Libelant-Appellee,

vs.

PACIFIC MAIL STEAMSHIP COMPANY,

Libelee-Appellant.

No. 66.

THOMAS ROE,

Libelant-Appellee,

vs.

PACIFIC MAIL STEAMSHIP COMPANY,

Libelee-Appellant.

No. 67.

GEORGE MORRISSEY,

Libelant-Appellee,

vs.

PACIFIC MAIL STEAMSHIP COMPANY,

Libelee-Appellant.

Order Extending Time to Transmit Transcript of Record.

Now, on this 19th day of July, A. D. 1906, it appearing from the representation of the clerk of this court, that it is impracticable for said clerk of this court to prepare and transmit to the clerk of the United States Circuit Court of Appeals at San Francisco, California, the transcript of the record on appeal in the above-entitled causes, consolidated for purposes of trial and appeal, within the time limited by the order of extension dated July 2d, 1906, namely August 1st, 1906, made in these causes; now, therefore, it is hereby ordered that the time within which the clerk of this court shall prepare and transmit said transcript of the record on appeal in these

causes, to the clerk of the United States Circuit Court of Appeals, be, and the same is hereby, extended to August 7th, 1906.

Dated, Honolulu, Hawaii, July 19th, A. D. 1906.

SANFORD B. DOLE,

Judge, United States District Court, Hawaii.

[Endorsed]: No. 62. U. S. District Court, Hawaii, Alfred Iverson, et al., vs. Pacific Mail S. S. Co. Order Extending Time to Transmit Record on Appeal. Filed July 19th, 1906. W. B. Maling, Clerk. By F. L. Hatch, Deputy Clerk.

No. 1375. United States Circuit Court of Appeals for the Ninth Circuit. Pacific Mail Steamship Company, vs. Alfred Iverson, et al. Three Orders Extending Time to Transmit Record on Appeal. Filed Aug. 3, 1906. F. D. Monckton, Clerk. Refiled Sep. 5, 1906. F. D. Monckton, Clerk. Clerk.

In the District Court of the United States in and for the District and Territory of Hawaii.

No. 62.

Consolidated for Purposes of Trial and Appeal.

ALFRED IVERSON,

Libelant-Appellee,

vs.

PACIFIC MAIL STEAMSHIP COMPANY,

Libelee-Appellant.

No. 64.

JOHN KENNEDY,

Libelant-Appellee,

vs.

PACIFIC MAIL STEAMSHIP COMPANY,

Libelee-Appellant.

No. 63.

PATRICK MURPHY,

Libelant-Appellee,

vs.

PACIFIC MAIL STEAMSHIP COMPANY,

Libelee-Appellant.

No. 66.

THOMAS ROE,

Libelant-Appellee,

vs.

PACIFIC MAIL STEAMSHIP COMPANY,

Libelee-Appellant.

No. 67.

GEORGE M. MORRISSEY,

Libelant-Appellee,

vs.

PACIFIC MAIL STEAMSHIP COMPANY,

Libelee-Appellant.

Statement.

October 30, 1905: Verified libel of Alfred Iverson filed; and

October 31, 1905: Citation issued to United States Marshal for the District of Hawaii.

November 1, 1905: Verified libels of John Kennedy and Patrick Murphy filed; and

November 2, 1905: Citations issued to United States Marshal for the District of Hawaii.

November 3, 1905: Verified libels of Thomas Roe and George M. Morrissey filed, and citations issued to United States Marshal for the District of Hawaii.

Names of Original Parties to Action.

Libelants: Alfred Iverson, Patrick Murphy, John Kennedy, Thomas Roe, George M. Morrissey.

Libelee: Pacific Mail Steamship Company, a corporation.

Dates of Filing of the Pleadings.

October 30, 1905; November 1, 1905; November 3, 1905; Libels. November 27, 1905: Answers Pacific Mail Steamship Company.

Dates of Trial.

January 4, 1906, January 8, 1906; January 9, 1906; January 10, 1906. The above-entitled causes were heard on said dates in the United States District Court for the Territory of Hawaii, at the city of Honolulu, before the Honorable Sanford B. Dole, Judge of said Court.

April 30, 1906: Opinion filed.

May 2, 1906: Final decrees in the above-entitled causes were filed and entered.

May 11th, 1906: Notice of appeal in the above-entitled causes was this day served and filed.

United States of America,
Territory of Hawaii,—ss.

I, Walter B. Maling, Clerk of the District Court of the United States for the District and Territory of Hawaii, do hereby certify the foregoing to be a full, true and correct statement showing the time of commencement of the above-entitled suits; the names of the original parties thereto; the several dates when the respective pleadings were filed; the time when the trial was had and the name of the Judge hearing the same; the date of entry of the final decree; and the date when the notice of appeal was filed in the above-entitled causes consolidated for purposes of trial and appeal.

In witness whereof, I have hereunto set my hand and affixed the seal of said District Court this 24th day of July, A. D. 1906.

[Seal] WALTER B. MALING,
Clerk, United States District Court, Territory of Hawaii.

In the District Court of the United States in and for the District and Territory of Hawaii.

IN ADMIRALTY.

ALFRED IVERSON,

vs.

PACIFIC MAIL STEAMSHIP COMPANY (a Corporation)

Libel in Personam—Action for Damages for Breach of Contract.

Libel of Alfred Iverson.

To the Honorable SANFORD B. DOLE, Judge of the District Court of the United States in and for the District and Territory of Hawaii:

The libel and complaint of Alfred Iverson, of San Francisco, in the State of California, a citizen of the United States of America, against Pacific Mail Steamship Company, a foreign corporation, owners of the steamship "Mongolia," in a cause for breach of contract, civil and maritime, alleges as follows:

I.

That the Pacific Mail Steamship Company was and is a corporation duly incorporated under the laws of the State of New York, owning and controlling the Steamship "Mongolia," a regular passenger and freight steamer sailing between the port of San Francisco, in the State of California, in the United States

of America, and certain ports and places in the Empires of Japan and China, and from said last ports and places to said San Francisco and the said Pacific Mail Steamship Company were and are the owners and controlled and operated said steamship at all times hereinafter stated in this libel.

II.

That this libelant, Alfred Iverson, on or about the 16th day of October, A. D. 1905, being then at the port of Yokohama in the Empire of Japan, and being desirous of proceeding to the port of San Francisco, in the State of California, applied to the libelee for a passage from said Yokohama to said San Francisco, on the steamship "Mongolia," then about to leave the said port of Yokohama, in Japan, for the said port of San Francisco, and the said libelee by its duly authorized agent contracted and agreed to receive and accept the said libelant as a passenger on board said Steamship "Mongolia," and further contracted and agreed to convey this libelant from said port of Yokohama to said port of San Francisco on board said Steamship "Mongolia," and did, in pursuance thereof, on or about the 18th day of October, A. D. 1905, receive the said Alfred Iverson as a passenger on board said Steamship "Mongolia" and agreed to carry and convey him with all convenient speed by the said Steamship "Mongolia" from the

said port of Yokohama to the said port of San Francisco as a passenger.

III.

That the Pacific Mail Steamship Company upon application by this libelant by its duly authorized agent, on or about the 20th day of October, issued to this libelant soon after leaving the port of Yokohama in the Empire of Japan the following steerage check or ticket:

"(2-1 05-3M) S. G. 63

PACIFIC MAIL STEAMSHIP COMPANY.

Steerage Check.

Steamer: 'Mongolia.' Voy. 7.

Name: A. Iverson.

From Yokohama to San Francisco.

No. Ticket: 9104.

A. E. RENNIE, Purser.

Good for this trip only—To be shown and returned when called for:"

IV.

That the said steamship "Mongolia" left the said port of Yokohama for the said port of San Francisco on or about the 18th day of October, A. D. 1905, with this libelant on board as a passenger and arrived at this port of Honolulu on or about the 27th day of October, A. D. 1905, with this libelant still on board as a passenger. The said steamship "Mongolia" having stopped at this port of Honolulu upon

her said voyage to land freight and passengers and take freight and passengers from said port of Honolulu to said San Francisco.

V.

That the said steamship "Mongolia" being about to leave this port of Honolulu on or about the 28th day of October, A. D. 1905, and continuing on her voyage to said port of San Francisco, this libelant went to the wharf at Honolulu where said steamship "Mongolia" was moored and was proceeding to go on board said steamship "Mongolia" to go to San Francisco in accordance with his contract and agreement as a passenger but the said libelee by its servants, agents and employees in violation of its contract and agreement, refused to allow this libelant to go on board the said steamship "Mongolia" and to resume the said voyage as a passenger and the said steamship thereafter left this port of Honolulu and proceeded on her voyage to said San Francisco without this libelant on board.

VI.

That this libelant did all that he was lawfully required to do in order to go on said steamship "Mongolia" as a passenger on her voyage from Honolulu to said port of San Francisco and applied for passage and presented himself as a passenger at a reasonable time before the sailing of the said steamship "Mongolia," yet the said libelee, by its servants,

agents and employees, in violation of the said contract and agreement so entered into at Yokohama aforesaid, refused to take this libelant on board as a passenger, and this libelant was left in this port of Honolulu without any money or means of any kind wherewith to provide himself with the necessaries of life, and has suffered great wrong, indignity and injury by reason of the breach of said contract by the said Pacific Mail Steamship Company.

All and singular the premises are true and within the admiralty and maritime jurisdiction of the United States and of this Honorable Court, and this libelant further alleges that he is without money, property or the means to carry on this suit or to pay his proctor, and prays that he may be allowed to file and conduct the same in forma pauperis in accordance with the Act of Congress and that your Honor may order accordingly.

Wherefore he prays that a citation according to the course and practice of this Honorable Court in causes of admiralty and maritime jurisdiction may issue to the Pacific Mail Steamship Company, the owners of the said steamship "Mongolia" citing and admonishing it to appear and answer all and singular the matters aforesaid and that this Court will award this libelant the sum of one thousand dollars damages for the breach of the contract aforesaid, and decree and pronounce accordingly with interest and costs,

and will give the libelant such further relief as in law and justice he may be entitled to receive.

Dated, Honolulu, October 30, A. D. 1905.

(Signed) ALFRED IVERSON.

GEO. A. DAVIS,

Proctor for Libelant.

United States of America,

District and Territory of Hawaii, Honolulu,—ss.

And now comes Alfred Iverson, the libelant above named, and being duly sworn upon his oath, deposes and says, that he has heard read the foregoing libel against the Pacific Mail Steamship Company, a corporation, and the facts and statements therein set forth and contained are just and true.

(Signed) ALFRED IVERSON.

Sworn to at Honolulu, Island and County of Oahu, District and Territory of Hawaii, this 30th day of October, A. D. 1905.

[Seal] (Signed) WILLIAM SAVIDGE.

A Notary Public, 1st Jud. Cir., T. of H.

Let process issue as prayed for in the within libel without the bond for costs being furnished or the payment of any fees to the Marshal or clerk.

Dated Oct. 31st, A. D. 1905.

SANFORD B. DOLE,

Judge U. S. District Court.

[Endorsed]: Title of Court and Cause. Libel. Filed Oct. 30, 1905. W. B. Maling, Clerk.

UNITED STATES OF AMERICA.

In the District Court of the United States for the Territory of Hawaii.

Citation in re Alfred Iverson.

The President of the United State of America, to the Marshal of the United States of America, for the Territory of Hawaii, Greeting:

Whereas, a libel has been filed in the District Court of the United States for the Territory of Hawaii, on the —— day of October, A. D. 1905, by Alfred Iverson vs. Pacific Mail Steamship Company, a corporation, in a certain action for damages, civil and maritime, to recover the sum of $1000.00 (as by said libel, reference being hereby made thereto, will more fully and at large appear), therein alleged to be due the said libelant and praying that a citation may issue against the said respondent, pursuant to the rules and practice of this Court: Now, therefore, we do hereby empower and strictly charge and command you, the said Marshal, that you cite and admonish the said respondent, if it shall be found in your District, that it be and appear before the said District Court, on Friday, the 10th day of November, A. D. 1905, at the courtroom in the city of Honolulu, then and there to answer the said libel, and to make its allegations in that behalf; and have you then and there this writ, with your return thereon.

Witness the Honorable SANFORD B. DOLE, Judge of said Court, at the city of Honolulu, in the Territory of Hawaii, this 31st day of October, A. D. 1905, and of the independence of the United States the one hundred and thirtieth.

[Seal] W. B. MALING,
Clerk.

GEO. A. DAVIS,
Proctor.

MARSHAL'S RETURN.

I have served this writ personally, on Pacific Mail Steamship Company, by handing to and leaving with Fritz Klamp, director of H. Hackfield & Co., Ltd., agents of said Pacific Mail Steamship Company, a true and correct copy of Citation, with certified copy of libel, personally, by Geo. Roenitz, Office Deputy U. S. Marshal, in Honolulu, T. H., this first day of November, A. D. 1905.

E. R. HENDRY,
United States Marshal.
By Geo. Roenitz,
Office Deputy Marshal.

Honolulu, T. H., November 1, 1905.

[Endorsed]: Title of Court and Cause. Citation issued Oct. 31, 1905. Citation returnable Nov. 10, 1905. Geo. A. Davis, Proctor for Libelant. Filed Nov. 1st, 1905. W. B. Maling, Clerk.

In the District Court of the United States in and for the District and Territory of Hawaii.

IN ADMIRALTY.

ALFRED IVERSON,

Libelant,

vs.

PACIFIC MAIL STEAMSHIP COMPANY (a Corporation),

Libelee.

Action for Damages for Breach of Contract—In Personam.

Answer of Defendant, Pacific Mail Steamship Company, to Libel of Alfred Iverson.

To the Honorable SANFORD B. DOLE, Judge of the District Court of the United States in and for the District and Territory of Hawaii.

Now comes the Pacific Mail Steamship Company, a corporation, libelee herein, and for answer to the libel of Alfred Iverson, libelant herein, avers and alleges:

1.

That it admits the allegations contained in paragraph I of said libel.

2.

In answer to the allegations contained in paragraph II of said libel, libelee admits that libelant was

on or about the 16th day of October, 1905, at the port of Yokohama in the Empire of Japan and desirous of proceeding to the port of San Francisco, but denies that he applied to libelee for a passage from said Yokohama to said San Francisco on the Steamship "Mongolia," and that the libelee by its duly authorized agent agreed to convey said libelant from said Yokohama to said San Francisco with all convenient speed or at all by said steamship "Mongolia," save as hereinafter set forth, though admitting that it accepted said libelant on board said "Mongolia" as a passenger at said Yokohama.

3.

In answer to the allegations in paragraph III of said libel, libelee admits that on or about the 20th day of October it issued to libelant the steerage check therein referred to, but denies that said steerage check was a ticket or that it entitled libelant to a passage to said San Francisco.

4.

Libelee admits the allegations contained in paragraph IV of said libel.

5.

Answering the allegations contained in paragraph V of said libel, libelee admits that libelant went to the wharf where said "Mongolia" was moored as alleged in said libel, and that he was refused admittance to said "Mongolia," and that said "Mongolia"

left said Honolulu and proceeded to San Francisco without libelant, but libelee denies that libelant was proceeding to go on board said "Mongolia" in accordance with any contract or agreement with libelee or that libelee's refusal to permit him to go on board said "Mongolia" was in violation of any contract or agreement with libelant.

6.

Answering paragraph VI of said libel libelee denies that libelant did what he was lawfully required to do in order to go on said "Mongolia" as alleged, or that he presented himself within a reasonable time before sailing as a passenger, it denies that its refusal to take said libelant on board was in violation of any contract or agreement as alleged, it admits that libelant was left in Honolulu, but has not sufficient information to admit or deny that he was without money or means, and it denies that libelant has suffered great or any wrong or indignity or injury by reason of the breach of contract alleged or otherwise. Libelee also denies the allegations that all and singular the premises are true.

All denials heretofore made in this answer are subject to admissions hereafter made.

7.

And as a further and separate answer to said libel, libelee alleges that in August, 1905, libelant signed articles with libelee in said San Francisco whereby he agreed to ship as a seaman on libelee's steamship

"Barracouta" on a nine months' voyage to an unknown port in Siberia, at wages agreed upon between libelant and libelee; that said "Barracouta" with libelant on board embarked on said voyage; that said ship was later captured by the Japanese and the crew thereof including libelant were brought before a Japanese Court, by which they were discharged, and thereafter on or about the 16th day of October, 1905, at the instance of the captain of the "Barracouta," libelee took libelant and the rest of said crew on board said "Mongolia," intending to transport them to said San Francisco; that neither libelant nor any one else paid anything for said transportation or any part of it; that on the arrival of said "Mongolia" in said Honolulu libelant left said "Mongolia" as hereinafter set out; that thereafter and before the bringing of this suit libelee offered even to transport libelant to San Francisco on its Steamship "China," sailing from Honolulu some 8 days thereafter and being libelee's next steamship sailing from Honolulu to San Francisco after said "Mongolia," and to pay for libelant's board and lodging in said Honolulu from the time of the leaving of said "Mongolia" until the sailing of said "China," to which offer libelant paid no attention, that at all times in this paragraph mentioned libelant was entitled to wages under his articles with said libelee heretofore mentioned; that part of said wages were paid to libelee in said Yokohama before the sailing of said "Mon-

golia," and that the rest could have been secured by libelant on his arrival in San Francisco.

8.

And as a further and separate defense to said libel libelee alleges that before the arrival of said "Mongolia" in said Honolulu, the proper officials of the United States Marine Hospital Service in the Territory of Hawaii, acting under the laws of the United States and the Regulations of the United States Treasury Department issued a lawful, binding and valid order that steerage passengers on incoming steamships should not be allowed to land; that libelant was given notice of said order by libelee before he left said "Mongolia"; that he was told by said libelee's agent before he left said "Mongolia" that if he left he could not return to said "Mongolia"; that libelant with full knowledge of said facts forcibly left said "Mongolia" at said Honolulu, despite libelee's efforts to prevent him, though such efforts were made; that the officials of said United States Marine Hospital Service thereupon forbade libelee to permit libelant to go on board said "Mongolia" again; that they refused to issue a clean bill of health to said "Mongolia" unless said libelant was excluded, and that in consequence of the foregoing facts libelant was rightly refused readmittance on board said "Mongolia."

9.

And as a further and separate defense to said libel, libelee alleges that even under the contract claimed to exist between libelant and libelee, and even assuming that libelant was taken on board said "Mongolia" by libelee as a passenger to be transported from said Yokohama to said San Francisco, there was no obligation on libelee to permit libelant to go ashore at said Honolulu; that libelant was forbidden to so go ashore by said libelee and was told by said libelee that he could not return to the ship if he went ashore; that despite said orders by said libelee, libelant forcibly went ashore from said "Mongolia," and that in consequence of the foregoing facts libelee lawfully refused to permit libelant to again go on board said "Mongolia."

Wherefore libelee prays that it may be hence dismissed with its costs.

PACIFIC MAIL STEAMSHIP COMPANY,
By H. HACKFELD & COMPANY, LIMITED,
Its Agents,
By F. WM. KLEBAHN,
Secretary.

Honolulu, Oahu,
Territory of Hawaii,—ss.

F. W. Klebahn being first duly sworn, on oath deposes and says:

That he is secretary of H. Hackfeld & Company, Limited, the agents of the Pacific Mail Steamship

Company, Limited, in this jurisdiction, and has full authority to make this affidavit on behalf of the said Pacific Mail Steamship Company, Limited; that he has read the foregoing answer and knows the contents thereof, and that the same is true, except as to those matters and things which are therein stated on information and belief and as to such matters he believes them to be true.

F. WM. KLEBAHN.

Subscribed and sworn to before me this 27th day of November, A. D. 1905.

[Seal] GUSSIE H. CLARK,
Notary Public, First Judicial Circuit.

[Endorsed]: Title of Court and Cause: Answer of Deft. Pacific Mail S. S. Co. Filed Nov. 27, 1905. W. B. Maling, Clerk.

In the District Court of the United States in and for the District and Territory of Hawaii.

IN ADMIRALTY.

JOHN KENNEDY

vs.

PACIFIC MAIL STEAMSHIP COMPANY (a Corporation).

In Personam—Action for Damages for Breach of Contract.

Libel of John Kennedy.

To the Honorable SANFORD B. DOLE, Judge of the District Court of the United States in and for the District and Territory of Hawaii.

The libel and complaint of John Kennedy, of San Francisco, in the State of California, a citizen of the United States of America, against Pacific Mail Steamship Company, a foreign corporation, owners of the steamship "Mongolia," in a cause for breach of contract, civil and maritime, alleges as follows:

I.

That the Pacific Mail Steamship Company was and is a corporation duly incorporated under the laws of the State of New York owning and controlling the Steamship "Mongolia," a regular passenger and freight steamer sailing between the port of San Francisco in the State of California in the United States of America, and certain ports and places in the Empires of Japan and China, and from said last ports and places to said San Francisco and the said Pacific Mail Steamship Company were and are the owners and controlled and operated said Steamship at all times hereinafter stated in this libel.

II.

That this libelant, John Kennedy, on or about the 16th day of October, A. D. 1905, being then at the port of Yokohama in the Empire of Japan, and being desirous of proceeding to the port of San Fran-

cisco in the State of California applied to the libelee for a passage from said Yokohama to said San Francisco on the Steamship "Mongolia" then about to leave the said port of Yokohama in Japan for the said port of San Francisco, and the said libelee by its duly authorized agent contracted and agreed to receive and accept the said libelant as a passenger on board said Steamship "Mongolia," and further contracted and agreed to convey this libelant from said port of Yokohama to said port of San Francisco on board said Steamship "Mongolia," and did, in pursuance thereof, on or about the 18th day of October, A. D. 1905, receive the said John Kennedy as a passenger on board said Steamship "Mongolia," and agreed to carry and convey him with all convenient speed by the said Steamship "Mongolia" from the said port of Yokohama to the said port of San Francisco as a passenger.

III.

That the Pacific Mail Steamship Company, upon application by this libelant by its duly authorized agent on or about the 20th day of October, issued to this libelant soon after leaving the port of Yokohama in the Empire of Japan the following steerage check or ticket:

"(2-1 05-3M) S. G. 63

PACIFIC MAIL STEAMSHIP COMPANY.

Steerage Check.

Steamer: 'Mongolia.' Voy. 7.

Name: J. Kennedy.
From Yokohama to San Francisco.
No. Ticket: 9115.

A. E. RENNIE,
Purser.

Good for this trip only—To be shown and returned when called for."

IV.

That the said Steamship "Mongolia" left the said port of Yokohama for the said port of San Francisco on or about the 18th day of October, A. D. 1905, with this libelant on board as a passenger and arrived at this port of Honolulu on or about the 27th day of October, A. D. 1905, with this libelant still on board as a passenger. The said Steamship "Mongolia" having stopped at this port of Honolulu upon her said voyage to land freight and passengers and to take freight and passengers from said port of Honolulu to said San Francisco.

V.

That the said Steamship "Mongolia," being about to leave this port of Honolulu on or about the 28th day of October, A. D. 1905, and continuing on her voyage to said port of San Francisco, this libelant went to the wharf at Honolulu where said Steamship "Mongolia" was moored and was proceeding to go on board said Steamship "Mongolia" to go to San Francisco in accordance with his contract and agree-

ment as a passenger, but the said libelee, by its servants, agents and employees, in violation of its said contract and agreement, refused to allow this libelant to go on board the said Steamship "Mongolia" and to resume the said voyage as a passenger, and the said Steamship thereafter left this port of Honolulu and proceeded on her voyage to said San Francisco without this libelant on board.

VI.

That this libelant did all that he was lawfully required to do in order to go on said Steamship "Mongolia" as a passenger on her voyage from Honolulu to said port of San Francisco, and applied for passage and presented himself as a passenger at a reasonable time before the sailing of the said Steamship "Mongolia," yet the said libelant, by its servants, agents and employees, in violation of the said contract and agreement so entered into at Yokohama aforesaid, refused to take this libelant on board as a passenger, and this libelant was left in this port of Honolulu without any money or means of any kind wherewith to provide himself with the necessaries of life, and has suffered great wrong, indignity and injury by reason of the breach of said contract by the said Pacific Mail Steamship Company.

All and singular the premises are true and within the admiralty and maritime jurisdiction of the United States and of this Honorable Court, and this

libelant further alleges that he is without money, property or the means to carry on this suit or to pay his proctor, and prays that he may be allowed to file and conduct the same in forma pauperis in accordance with the Act of Congress, and that your Honor may order accordingly.

Wherefore he prays that a citation according to the course and practice of this Honorable Court in causes of admiralty and maritime jurisdiction may issue to the Pacific Mail Steamship Company, the owners of the said Steamship "Mongolia," citing and admonishing it to appear and answer all and singular the matter aforesaid, and that this Court will award this libelant the sum of one thousand dollars damages for the breach of the contract aforesaid, and decree and pronounce accordingly with interest and costs and will give the libelant such further relief as in law and justice he may be entitled to receive.

Dated Honolulu, November 1st, A. D. 1905.

JOHN KENNEDY.

GEO. A. DAVIS,
Proctor for Libelant.

United States of America,
District and Territory of Hawaii,
Honolulu,—ss.

And now comes John Kennedy, the libelant above named, and being duly sworn upon his oath deposes

and says, that he has heard read the foregoing libel against the Pacific Mail Steamship Company, a corporation, and the facts and statements therein set forth and contained are just and true.

JOHN KENNEDY.

Sworn to at Honolulu, Island and County of Oahu, District and Territory of Hawaii, this 1st day of November, A. D. 1905.

[Seal] WILLIAM SAVIDGE,

A Notary Public, First Judicial Circuit, Ter. of Hawaii.

Let process issue as prayed for without the filing of the Bonds for costs or the payment of the clerk's and marshal's fees and costs.

Dated this 1st day of November, A. D. 1905.

SANFORD B. DOLE,

Judge of the District Court of the United States in and for the District and Territory of Hawaii.

]Endorsed[: Title of Court and Cause. In Admiralty—in Personum—Libel. Filed Nov. 1, 1905. W. B. Maling, Clerk.

UNITED STATES OF AMERICA.

In the District Court of the United States for the Territory of Hawaii.

Citation in re John Kennedy.

The President of the United States of America, to the Marshal of the United States of America, for the Territory of Hawaii, Greeting:

Whereas, a libel has been filed in the District Court of the United States for the Territory of Hawaii, on the 1st day of November, A. D. 1905, by John Kennedy vs. Pacific Mail Steamship Company, a corporation in a certain action for damages, civil and maritime, to recover the sum of $1,000.00 (as by said libel, reference being hereby made thereto, will more fully and at large appear), therein alleged to be due the said libelant and praying that a citation may issue against said respondent, pursuant to the rules and practice of this Court: Now, therefore, we do hereby empower and strictly charge and command you, the said marshal, that you cite and admonish the said respondent, if it shall be found in your District, that it be and appear before the said District Court, on Friday the 10th day of November A. D. 1905, at the courtroom in the city of Honolulu, then and there to answer the said libel, and to make its allegations in that behalf; and have you then and there this writ, with your return thereon.

Witness the Honorable SANFORD B. DOLE, Judge of said Court, at the city of Honolulu, in the territory of Hawaii, this 2d day of November, A. D. 1905, and of the independence of the United States the one hundred and thirtieth.

[Seal] W. B. MALING,
Clerk.

GEO. A. DAVIS,
Proctor.

MARSHAL'S RETURN.

I have served this writ personally on Pacific Mail Steamship Company by handing to and leaving a true and correct copy of citation with certified copy of libel with Wm. Pfotenhauer, director of H. Hackfeld & Company, Ltd., their agents, at Honolulu, T. H., this 2d day of November, A. D. 1905.

E. R. HENDRY,
United States Marshal.
By Geo. Roenitz,
Office Deputy Marshal.

Honolulu, T. H., November 2, 1904.

[Endorsed]: Title of Court and Cause. Citation issued Nov. 2d, 1905. Citation returnable Nov. 10, 1905. Geo. A. Davis, Proctor for Libelant. Filed Nov. 2, 1905. W. B. Maling, Clerk. By F. L. Hatch, Deputy Clerk.

In the District Court of the United States in and for the District and Territory of Hawaii.

IN ADMIRALTY.

JOHN KENNEDY,

Libelant,

vs.

PACIFIC MAIL STEAMSHIP COMPANY (a Corporation),

Libelee.

Action for Damages for Breach of Contract—In Personam.

Answer of Defendant, Pacific Mail Steamship Company, to Libel of John Kennedy.

To the Honorable SANFORD B. DOLE, Judge of the District Court of the United States in and for the District and Territory of Hawaii.

Now comes the Pacific Mail Steamship Company, a corporation, libelee herein, and for answer to the libel of John Kennedy, libelant herein, avers and alleges:

1.

That it admits the allegations contained in paragraph I of said libel.

2.

In answer to the allegations contained in paragraph II of said libel, libelee admits that libelant was on or about the 16th day of October, 1905, at the port of Yokohama in the Empire of Japan and desirous of proceeding to the port of San Francisco, but denies that he applied to libelee for a passage from said Yokohama to said San Francisco on the steamship "Mongolia," and that the libelee by its duly authorized agent agreed to convey said libelant from said Yokohama to said San Francisco with all convenient speed or at all by said Steamship "Mongolia," save as hereinafter set forth, though admitting that it accepted said libelant on board said "Mongolia" as a passenger at said Yokohama.

3.

In answer to the allegations in paragraph III of said libel libelee admits that on or about the 20th day of October it issued to libelant the steerage check therein referred to, but denies that said steerage check was a ticket or that it entitled libelant to passage to said San Francisco.

4.

Libelee admits the allegations contained in paragraph IV of said libel.

Answering the allegations contained in paragraph V of said libel, libelee admits that libelant went to the wharf where said "Mongolia" was moored as alleged in said libel, and that he was refused admittance to said "Mongolia," and that said "Mongolia left said Honolulu and proceeded to San Francisco without libelant, but libelee denies that libelant was proceeding to go on board said "Mongolia" in accordance with any contract or agreement with libelee, or that libelee's refusal to permit him to go on board said "Mongolia" was in violation of any contract or agreement with libelant.

6.

Answering paragraph VI of said libel, libelee denies that libelant did what he was lawfully required to do in order to go on said "Mongolia" as alleged, or that he presented himself within a reasonable time before sailing as a passenger; it denies that its

refusal to take said libelant on board was in violation of any contract or agreement as alleged; it admits that libelant was left in Honolulu, but has not sufficient information to admit or deny that he was without money or means, and it denies that libelant has suffered great or any wrong or indignity or injury by reason of the breach of contract alleged or otherwise. Libelee also denies the allegations that all and singular the premises are true.

All denials heretofore made in this answer are subject to admissions hereafter made.

7.

And as a further and separate answer to said libel, libelee alleges that in August, 1905, libelant signed articles with libelee in said San Francisco, whereby he agreed to ship as a seaman on libelee's steamship "Barracouta" on a nine months' voyage to an unknown port in Siberia, at wages agreed on between libelant and libelee, that said "Barracouta" with libelant on board embarked on said voyage; that said ship was later captured by the Japanese and the crew thereof, including libelant, were brought before a Japanese Court, by which they were discharged; that thereafter, on or about the 16th day of October, 1905, at the instance of the captain of the "Barracouta" libelee took libelant and the rest of said crew on board said "Mongolia," intending to transport them to said San Francisco; that neither

libelant nor anyone else paid anything for said transportation or any part of it; that on the arrival of said "Mongolia" in said Honolulu libelant left said "Mongolia" as hereinafter set out; that thereafter and before the bringing of this suit libelee offered to transport libelant to San Francisco on its Steamship "China," sailing from Honolulu some 8 days thereafter and being libelee's next steamship sailing from Honolulu to San Francisco after said "Mongolia," and to pay for libelant's board and lodging in said Honolulu from the time of the leaving of said "Mongolia" until the sailing of said "China," to which offer libelant paid no attention; that at all times in this paragraph mentioned libelant was entitled to wages under his articles with said libelee heretofore mentioned; that part of said wages were paid to libelee in said Yokohama before the sailing of said "Mongolia," and that the rest could have been secured by libelant on his arrival in San Francisco.

8.

And as a further and separate defense to said libel, libelee alleges that before the arrival of said "Mongolia" in said Honolulu, the proper officials of the United States Marine Hospital Service in the Territory of Hawaii, acting under the laws of the United States and the Regulations of the United States Treasury Department issued a lawful, binding and valid order that steerage passengers on incoming

steamships should not be allowed to land, that libelant was given notice of said order by libelee before he left said "Mongolia"; that he was told by said libelee's agents before he left said "Mongolia" that if he left he could not return to said "Mongolia"; that libelant, with full knowledge of said facts, forcibly left said "Mongolia" at said Honolulu, despite libelee's efforts to prevent him, though such efforts were made; that the officials of said United States Marine Hospital Service thereupon forbade libelee to permit libelant to go on board said "Mongolia" again; that they refused to issue a clean bill of health to said "Mongolia" unless said libelant was excluded, and that in consequence of the foregoing facts libelant was rightly refused readmittance on board said "Mongolia."

9.

And as a further and separate defense to said libel, libelee alleges that even under the contract claimed to exist between libelant and libelee and even assuming that libelant was taken on board said "Mongolia" by libelee as a passenger to be transported from said Yokohama to said San Francisco, there was no obligation on libelee to permit libelant to go ashore at said Honolulu; that libelant was forbidden to so go ashore by said libelee and was told by said libelee that he could not return to the ship if he went ashore; that despite said orders by said libelee, libelant forcibly went ashore from said "Mongolia," and that in

consequence of the foregoing facts libelee lawfully refused to permit libelant to again go on board said "Mongolia."

Wherefore libelee prays that it may be hence dismissed with its costs.

PACIFIC MAIL STEAMSHIP COMPANY,

By H. HACKFELD & COMPANY, LIMITED, Its Agents.

By F. WM. KLEBAHN, Secretary.

Honolulu, Oahu,
Territory of Hawaii,—ss.

F. W. Klebahn, being first duly sworn, on oath deposes and says:

That he is secretary of H. Hackfeld & Company, Limited, the agents of the Pacific Mail Steamship Company, Limited, in this jurisdiction, and has full authority to make this affidavit on behalf of said Pacific Mail Steamship Company, Limited; that he has read the foregoing answer and knows the contents thereof, and that the same is true, except as to those matters and things which are therein stated on information and belief and as to such matters he believes them to be true.

F. WM. KLEBAHN.

Subscribed and sworn to before me this 27th day of November, A. D. 1905.

[Seal] GUSSIE H. CLARK.

Notary Public First Judicial Circuit.

[Endorsed]: Title of Court and Cause. Answer of Deft. Pacific Mail S. S. Co. Filed Nov. 27, 1905. W. B. Maling, Clerk.

In the District Court of the United States in and for the District and Territory of Hawaii.

IN ADMIRALTY.

PATRICK MURPHY,

vs.

PACIFIC MAIL STEAMSHIP COMPANY (a Corporation).

In Personam—Action for Damages for Breach of Contract.

Libel of Patrick Murphy.

To the Honorable SANFORD B. DOLE, Judge of the District Court of the United States in and for the District and Territory of Hawaii.

The libel and complaint of Patrick Murphy, of San Francisco, in the State of California, a citizen of the United States of America, against Pacific Mail Steamship Company, a foreign corporation, owners of the Steamship "Mongolia," in a cause for breach of contract, civil and maritime, alleges as follows:

I.

That the Pacific Mail Steamship Company was and is a corporation duly incorporated under the laws of the State of New York owning and control-

ling the Steamship "Mongolia," a regular passenger and freight steamer sailing between the port of San Francisco in the State of California in the United States of America, and certain ports and places in the Empire of Japan and China, and from said last ports and places to said San Francisco and the said Pacific Mail Steamship Company were and are owners and controlled and operated said steamship at all times hereinafter stated in this libel.

II.

That this libelant, Patrick Murphy, on or about the 16th day of October, A. D. 1905, being then at the port of Yokohama in the Empire of Japan, and being desirous of proceeding to the port of San Francisco in the State of California applied to the libelee for a passage from said Yokohama to said San Francisco on the Steamship "Mongolia," then about to leave the said port of Yokohama in Japan for the said port of San Francisco, and the said libelee, by its duly authorized agent, contracted and agreed to receive and accept the said libelant as a passenger on board said Steamship "Mongolia," and further contracted and agreed to convey this libelant from said port of Yokohama to said port of San Francisco on board said Steamship "Mongolia," and did, in pursuance thereof, on or about the 18th day of October, A. D. 1905, receive the said Patrick Murphy as a passenger on board said Steamship "Mongolia," and

agreed to carry and convey him with all convenient speed by the said Steamship "Mongolia" from said port of Yokohama to the said port of San Francisco as a passenger.

III.

That the Pacific Mail Steamship Company, upon application by this libelant, by its duly authorized agent, on or about the 20th day of October, issued to this libelant soon after leaving the port of Yokohama in the Empire of Japan the following steerage check or ticket:

"(2-1, '05-3M.) S. G. 63

PACIFIC MAIL STEAMSHIP COMPANY.

Steerage check.

Steamer: 'Mongolia.' Voy. 7.

Name: P. Murphy.

From Yokohama to San Francisco.

No. Ticket: 9116.

A. E. RENNIE,

Purser.

Good for this trip only—to be shown and returned when called for."

IV.

That the said Steamship "Mongolia" left the said port of Yokohama for the said port of San Francisco on or about the 18th day ofOctober, A. D. 1905, with this libelant on board as a passenger and arrived at this port of Honolulu on or about the 27th day of October, A. D. 1905, with this libelant still on board

as a passenger. The said Steamship "Mongolia" having stopped at this port of Honolulu upon her said voyage to land freight and passengers and to take freight and passengers from said port of Honolulu to said San Francisco.

V.

That the said Steamship "Mongolia" being about to leave this port of Honolulu on or about the 28th day of October, A. D. 1905, and continuing on her voyage to said port of San Francisco, this libelant went to the wharf at Honolulu where said Steamship "Mongolia" was moored and was proceeding to go on board the Steamship "Mongolia" to go to San Francisco in accordance with his contract and agreement as a passenger, but the said libelee, by its servants, agents and employees, in violation of its said contract and agreement, refused to allow this libelant to go on board the said Steamship "Mongolia" and to resume the said voyage as a passenger, and the said steamship thereafter left this port of Honolulu and proceeded on her voyage to said San Francisco without this libelant on board.

VI.

That this libelant did all that he was lawfully required to do in order to go on said Steamship "Mongolia" as a passenger on her voyage from Honolulu to said port of San Francisco, and applied for passage and presented himself as a passenger at

a reasonable time before the sailing of the said Steamship "Mongolia," yet the said libelee, by its servants, agents and employees, in violation of the said contract and agreement so entered into at Yokohama aforesaid refused to take this libelant on board as a passenger and this libelant was left in this port of Honolulu without any money or means of any kind wherewith to provide himself with the necessaries of life and has suffered great wrong, indignity and injury by reason of the breach of said contract by the said Pacific Mail Steamship Company.

All and singular the premises are true and within the admiralty and maritime jurisdiction of the United States and of this Honorable Court, and this libelant further alleges that he is without money, property or the means to carry on this suit or to pay his proctor and prays that he may be allowed to file and conduct the same in forma pauperis in accordance with the Act of Congress and that your Honor may order accordingly.

Wherefore he prays that a citation according to the course and practice of this Honorable Court in causes of admiralty and maritime jurisdiction may issue to the Pacific Mail Steamship Company, the owners of the said Steamship "Mongolia" citing and admonishing it to appear and answer all and singular the matters aforesaid, and that this Court will award this libelant the sum of one thousand dollars damages for the breach of the contract aforesaid, and de-

cree and pronounce accordingly with interest and costs and will give the libelant such further relief as in law and justice he may be entitled to receive.

Dated Honolulu, November 1st, A. D. 1905.

PATRICK MURPHY.

GEO. A. DAVIS,
Proctor for Libelant.

United States of America,
District and Territory of Hawaii,
Honolulu,—ss.

And now comes Patrick Murphy, the libelant above-named, and being duly sworn upon his oath deposes and says: That he has heard read the foregoing libel against the Pacific Mail Steamship Company, a corporation, and the facts and statements therein set forth and contained are just and true.

PATRICK MURPHY.

Sworn to at Honolulu, Island and County of Oahu, District and Territory of Hawaii, this 1st day of November, A. D. 1905.

[Seal] WILLIAM SAVIDGE,
A Notary Public, First Judicial Circuit, Ter. of Hawaii.

Let process issue as prayed for without the filing of bond for costs or the payment of the clerk's and marshal's fees and costs.

Dated this 1st day of November, A. D. 1905.

SANFORD B. DOLE,
Judge of the District Court of the United States in and for the District and Territory of Hawaii.

[Endorsed]: Title of Court and Cause. In Admiralty — in Personam — Libel. Filed November 1st, 1905. W. B. Maling, Clerk. Geo. A. Davis, Poctor for Libelant.

UNITED STATES OF AMERICA.

In the District Court of the United States for the Territory of Hawaii.

Citation in re Patrick Murphy.

The President of the United States of America, to the Marshal of the United States of America, for the Territory of Hawaii, Greeting:

Whereas a libel has been filed in the District Court of the United States for the Territory of Hawaii, on the first day of November, A. D. 1905, by Patrick Murphy vs. Pacific Mail Steamship Company, a Corporation, a certain action for damages, civil and maritime, to recover the sum of $1,000.00 (as by said libel, reference being hereby made thereto, will more fully and at large appear), therein alleged to be due the said libelant and praying that a citation may issue against the said respondent, pursuant to the rules and practice of this Court: Now, therefore, we do hereby empower and strictly charge and command you, the said marshal, that you cite and admonish the said respondent, if it shall be found in your District, that it be and appear before the said District

Court, on Friday, the 10th day of November, A. D. 1905, at the courtroom in the city of Honolulu, then and there to answer the said libel, and to make its allegations in that behalf; and have you then and there this writ, with your return thereon.

Witness the Honorable SANFORD B. DOLE, Judge of said court, at the city of Honolulu, in the Territory of Hawaii, this 2d day of November A. D. 1905, and of the independence of the United States the one hundred and thirtieth.

[Seal] W. B. MALING,
Clerk.

GEO. A. DAVIS,
Proctor.

MARSHAL'S RETURN.

I have served this writ personally on Pacific Mail Steamship Company by handing to and leaving a true and correct copy of citation, with certified copy of libel with Wm. Pfotenhauer, director of H. Hackfeld & Company, Ltd., Agents of said Pacific Mail Steamship Company, at Honolulu, T. H., the 2d day of November, A. D. 1905.

Honolulu, T. H., November 2, 1905.

E. R. HENDRY,
United States Marshal.
By George Roenitz,
Office Deputy Marshal.

[Endorsed]: Title of Court and Cause. Citation issued Nov. 2d, 1905. Citation returnable Nov. 10,

1906. Geo. A. Davis, Proctor for Libelant. Filed Nov. 2, 1905. W. B. Maling, Clerk. By F. L. Hatch, Deputy Clerk.

In the District Court of the United States in and for the District and Territory of Hawaii.

IN ADMIRALTY.

PATRICK MURPHY,

Libelant,

vs.

PACIFIC MAIL STEAMSHIP COMPANY (a Corporation),

Libelee.

Action for Damages for Breach of Contract—In Personam.

Answer of Defendant, Pacific Mail Steamship Company, to Libel of Patrick Murphy.

To the Honorable SANFORD B. DOLE, Judge of the District Court of the United States in and for the District and Territory of Hawaii.

Now comes the Pacific Mail Steamship Company, a corporation, libelee herein, and for answer to the libel of Patrick Murphy, libelant herein, avers and alleges:

1.

That it admits the allegations contained in paragraph I of said libel.

2.

In answer to the allegations contained in paragraph II of said libel, lebellee admits that libelant was, on or about the 16th day of October, 1905, at the port of Yokohama, in the Empire of Japan, and desirous of proceeding to the port of San Francisco, but denies that he applied to libelee for a passage from said Yokohama to said San Francisco on the steamship "Mongolia," and that the libelee, by its duly authorized agent, agreed to convey said libelant from said Yokohama to said San Francisco with all convenient speed, or at all, by said steamship "Mongolia," save as hereinafter set forth, though admitting that it accepted said libelant on board said "Mongolia" as a passenger at said Yokohama.

3.

In answer to the allegations in paragraph III of said libel, libelee admits that on or about the 20th day of October it issued to libelant the steerage check therein referred to, but denies that said steerage check was a ticket, or that it entitled libelant to passage to said San Francisco.

4.

Libelee admits the allegations contained in paragraph IV of said libel.

5.

Answering the allegations contained in paragraph V of said libel, libelee admits that libelant went to

the wharf where said "Mongolia" was moored, as alleged in said libel, and that he was refused admittance to said "Mongolia," and that said "Mongolia" left said Honolulu and proceeded to San Francisco without libelant, but libelee denies that libelant was proceeding to go on board said "Mongolia" in accordance with any contract or agreement with libelee, or that libelee's refusal to permit him to go on board said "Mongolia" was in violation of any contract or agreement with libelant.

6.

Answering paragraph VI of said libel, libelee denies that libelant did what he was lawfully required to do in order to go on said "Mongolia," as alleged, or that he presented himself within a reasonable time before sailing as a passenger; it denies that its refusal to take said libelant on board was in violation of any contract or agreement, as alleged; it admits that libelant was left in Honolulu, but has not sufficient information to admit or deny that he was without money or means, and it denies that libelant has suffered great or any wrong or indignity or injury by reason of the breach of contract alleged or otherwise. Libelee also denies the allegations that all and singular the premises are true.

All denials heretofore made in this answer are subject to admissions hereafter made.

7.

And as a further and separate answer to said libel, libelee alleges that in August, 1905, libelant signed articles with libelee in said San Francisco, whereby he agreed to ship as a seaman on libelee's steamship "Barracouta," on a nine months' voyage to an unknown port in Siberia, at wages agreed on between libelant and libelee; that said "Barracouta," with libelant on board, embarked on said voyage; that said ship was later captured by the Japanese and the crew thereof, including libelant, were brought before a Japanese court, by which they were discharged; that thereafter, on or about the 16th day of October, 1905, at the instance of the captain of the "Barracouta," libelee took libelant and the rest of said crew on board said "Mongolia," intending to transport them to said San Francisco; that neither libelant nor anyone else paid anything for said transportation, or any part of it; that on the arrival of said "Mongolia" in said Honolulu libelant left said "Mongolia," as hereinafter set out; that thereafter and before the bringing of this suit libelee offered to transport libelant to San Francisco on its steamship "China," sailing from Honolulu some 8 days thereafter and being libelee's next steamship sailing from Honolulu to San Francisco after said "Mongolia," and to pay for libelant's board and lodging in said Honolulu from the time of the leaving of said "Mongolia" until the sailing

of said "China," to which offer libelant paid no attention; that at all times in this paragraph mentioned libelant was entitled to wages under his articles with said libelee heretofore mentioned; that part of said wages were paid to libelee in said Yokohama before the sailing of said "Mongolia," and that the rest could have been secured by libelant on his arrival in San Francisco.

8.

And as a further and separate defense to said libel, libelee alleges that before the arrival of said "Mongolia" in said Honolulu, the proper officials of the United States Marine Hospital Service in the Territory of Hawaii, acting under the laws of the United States and the Regulations of the United States Treasury Department issued a lawful, binding and valid order that steerage passengers on incoming steamships should not be allowed to land; that libelant was given notice of said order by libelee before he left said "Mongolia"; that he was told by said libelee's agents before he left said "Mongolia" that if he left he could not return to said "Mongolia"; that libelant, with full knowledge of said facts, forcibly left said "Mongolia" at said Honolulu, despite libelee's efforts to prevent him, though such efforts were made; that the officials of said United States Marine Hospital Service thereupon forbade libelee to permit libelant to go on board said

"Mongolia" again; that they refused to issue a clean bill of health to said "Mongolia" unless said libelant was excluded, and that in consequence of the foregoing facts libelant was rightly refused readmittance on board said "Mongolia."

9.

And as a further and separate defense to said libel, libelee alleges that even under the contract claimed to exist between libelant and libelee, and even assuming that libelant was taken on board said "Mongolia" by libelee as a passenger to be transported from said Yokohama to said San Francisco, there was no obligation on libelee to permit libelant to go ashore at said Honolulu; that libelant was forbidden to so go ashore by said libelee, and was told by said libelee that he could not return to the ship if he went ashore; that despite said orders by said libelee, libelant forcibly went ashore from said "Mongolia," and that in consequence of the foregoing facts libelee lawfully refused to permit libelant to again go on board said "Mongolia."

Wherefore libelee prays that it may be hence dismissed with its costs.

PACIFIC MAIL STEAMSHIP COMPANY,
By H. HACKFELD & COMPANY, LIMITED,
It Agents.

By F. WM. KLEBAHN,
Secretary.

Honolulu, Oahu,
Territory of Hawaii,—ss.

F. W. Klebahn, being first duly sworn, on oath deposes and says:

That he is secretary of H. Hackfeld & Company, Limited, the agents of the Pacific Mail Steamship Company, Limited, in this jurisdiction, and has full authority to make this affidavit on behalf of said Pacific Mail Steamship Company, Limited; that he has read the foregoing answer and knows the contents thereof, and that the same is true, except as to those matters and things which are therein stated on information and belief, and as to such matters he believes them to be true.

F. WM. KLEBAHN.

Subscribed and sworn to before me this 27th day of November, A. D. 1905.

[Seal] GUSSIE H. CLARK,
Notary Public First Judicial Circuit.

[Endorsed]: Title of Court and Cause. Answer of Deft. Pacific Mail S. S. Co. Filed No. 27, 1906. W. B. Maling, Clerk.

In the District Court of the United States, in and for the District and Territory of Hawaii.

IN ADMIRALTY.

THOMAS ROE,

vs.

PACIFIC MAIL STEAMSHIP COMPANY (a Corporation).

Libel—In Personam—Action for Damages for Breach of Contract.

Libel of Thomas Roe.

To the Honorable SANFORD B. DOLE, Judge of the District Court of the United States in and for the District and Territory of Hawaii.

The libel and complaint of Thomas Roe, of San Francisco, in the State of California, a citizen of the United States of America, against Pacific Mail Steamship Company, a foreign corporation, owners of the steamship "Mongolia," in a cause for breach of contract, civil and maritime, alleges as follows:

I.

That the Pacific Mail Steamship Company was and is a corporation duly incorporated under the laws of the State of New York, owning and controlling the steamship "Mongolia," a regular passenger and freight steamer sailing between the port of San Francisco, in the State of California, in the United

States of America, and certain ports and places in the Empires of Japan and China, and from said last ports and places to said San Francisco, and the said Pacific Mail Steamship Company were and are the owners and controlled and operated said steamship at all times hereinafter stated in this libel.

II.

That this libelant, Thomas Roe, on or about the 16th day of October, A. D. 1905, being then at the port of Yokohama, in the Empire of Japan, and being desirous of proceeding to the port of San Francisco, in the State of California, applied to the libelee for a passage from said Yokohama to said San Francisco on the steamship "Mongolia," then about to leave the said port of Yokohama in Japan for the said port of San Francisco, and the said libelee, by its duly authorized agent, contracted and agreed to receive and accept the said libelant as a passenger on board said steamship "Mongolia," and further contracted and agreed to convey this libelant from said port of Yokohama to said port of San Francisco on board said steamship "Mongolia," and did, in pursuance thereof, on or about the 18th day of October, A. D. 1905, receive the said Thomas Roe as a passenger on board said steamship "Mongolia," and agreed to carry and convey him with all convenient speed by the said steamship "Mongolia" from the

said port of Yokohama to the said port of San Francisco as a passenger.

III.

That the Pacific Mail Steamship Company, upon application by this libelant, by its duly authorized agent, on or about the 20th day of October, A. D. 1905, issued to this libelant soon after leaving the port of Yokohama, in the Empire of Japan, the following steerage check or ticket:

"(2-1 05-3M) S G 63

PACIFIC MAIL STEAMSHIP COMPANY.

Steerage Check.

Steamer: 'Mongolia.' Voy. 7.

Name: S. Ross.

From: Yokohama to San Francisco.

No. Ticket: 9118.

A. E. RENNIE,

Purser.

Good for this trip only—To be shown and returned when called for."

IV.

That the said steamship "Mongolia" left the said port of Yokohama for the said port of San Francisco on or about the 18th day of October, A. D. 1905, with this libelant on board as a passenger and arrived at this port of Honolulu on or about the 27th day of October, A. D. 1905, with this libelant still on board as a passenger. The said steamship "Mongolia"

having stopped at this port of Honolulu upon her said voyage to land freight and passengers and to take freight and passengers from said port of Honolulu to said San Francisco.

V.

That the said steamship "Mongolia" being about to leave this port of Honolulu, on or about the 28th day of October, A. D. 1905, and continuing on her voyage to said port of San Francisco, this libelant went to the wharf at Honolulu, where said steamship "Mongolia" was moored and was proceeding to go on board said steamship "Mongolia, to go to San Francisco in accordance with his contract and agreement as a passenger, but the said libelee, by its servants, agents and employees, in violation of its said contract and agreement, refused to allow this libelant to go on board the said steamship "Mongolia" and to resume the said voyage as a passenger, and the said steamship thereafter left this port of Honolulu and proceeded on her voyage to said San Francisco without this libelant on board.

VI.

That this libelant did all that he was lawfully required to do in order to go on said steamship "Mongolia" as a passenger on her voyage from Honolulu to said port of San Francisco, and applied for passage and presented himself as a passenger at a reasonable time before the sailing of the said steamship

"Mongolia," yet the said libelee, by its servants, agents and employees, in violation of the said contract and agreement so entered into at Yokohama aforesaid, refused to take this libelant on board as a passenger, and this libelant was left in this port of Honolulu without any money or means of any kind wherewith to provide himself with the necessaries of life, and has suffered great wrong, indignity and injury by reason of the breach of said contract by the said Pacific Mail Steamship Company.

All and singular the premises are true and within the admiralty and maritime jurisdiction of the United States and of this Honorable Court, and this libelant further alleges that he is without money, property or the means to carry on this suit or to pay his proctor, and prays that he may be allowed to file and conduct the same in forma pauperis in accordance with the Act of Congress, and that your Honor may order accordingly.

Wherefore he prays that a citation according to the course and practice of this Honorable Court in causes of admiralty and maritime jurisdiction may issue to the Pacific Mail Steamship Company, the owners of the said steamship "Mongolia," citing and admonishing it to appear and answer all and singular the matters aforesaid, and that this Court will award this libelant the sum of one thousand dollars damages for the breach of the contract aforesaid, and decree and pronounce accordingly with

interest and costs, and will give the libelant such further relief as in law and justice he may be entitled to receive.

Dated Honolulu, November 2d. A. D. 1905.

THOMAS ROE.

United States of America,
District and Territory of Hawaii,
Honolulu,—ss.

And now comes Thomas Roe, the libelant above named, and being duly sworn upon his oath deposes and says: That he has heard read the foregoing libel against the Pacific Mail Steamship Company, a corporation, and the facts and statements therein set forth and contained are just and true.

THOMAS ROE.

Sworn to at Honolulu, Island and County of Oahu, District and Territory of Hawaii, this 2d day of November, A. D. 1905.

[Seal] WILLIAM SAVIDGE,
A Notary Public, 1st Jud. Circuit, Territory of Hawaii.

Let process issue as prayed for without the filing of the bond for costs or the payment of the clerk's or marshal's fees and costs.

Dated this 3d day of November, A. D. 1905.

SANFORD B. DOLE,
Judge of the District Court of the United States, in and for the District and Territory of Hawaii.

[Endorsed]: Title of Court and Cause. In Admiralty—In Personam—Libel. Filed Nov. 3, 1905. W. B. Maling, Clerk. By F. L. Hatch, Deputy Clerk.

UNITED STATES OF AMERICA.

In the District Court of the United States for the Territory of Hawaii.

Citation in re Thomas Roe.

The President of the United States of America, to the Marshal of the United States of America, for the Territory of Hawaii—Greeting:

Whereas, a libel has been filed in the District Court of the United States for the Territory of Hawaii, on the 3d day of November, A. D. 1905, by Thomas Roe vs. Pacific Mail Steamship Company in a certain action for damages, civil and maritime, to recover the sum of $1000.00 (as by said libel, reference being hereby made thereto, will more fully and at large appear), therein alleged to be due the said libelant and praying that a citation may issue against the said respondent, pursuant to the rules and practice of this Court: Now, therefore, we do hereby empower and strictly charge and command you, the said marshal, that you cite and admonish the said respondent, if it shall be found in your District, that it be and appear before the said District Court, on Friday, the 10th day of November, A. D. 1905, at the courtroom

in the city of Honolulu, then and there to answer the said libel, and to make its allegations in that behalf; and have you then and there this writ, with your return thereon.

Witness the Honorable SANFORD B. DOLE, Judge of said Court, at the City of Honolulu, in the Territory of Hawaii, this 3d day of November, A. D. 1905, and of the independence of the United States the one hundred and thirtieth.

[Seal] W. B. MALING,
Clerk.
By F. L. Hatch,
Deputy Clerk.

RETURN ON SERVICE OF WRIT.

United States of America,
District of Hawaii,—ss.

I hereby certify and return that I served the annexed citation on the therein named Pacific Mail Steamship Company by handing to and leaving a true and correct copy thereof with certified copy of libel, with Wm. Pfotenhauer, director of H. Hackfeld and Co., Ltd., agents of said company, personally at Honolulu in said District on the 3d day of November, A. D. 1905.

E. R. HENDRY,
U. S. Marshal.
By F. L. Winter,
Chief Office Deputy.

[Endorsed]: Title of Court and Cause. Citation issued Nov. 3, 1905. Citation returnable Nov. 10, 1905. Geo. A. Davis, Proctor for Libelant. Filed Nov. 4, 1905. W. B. Maling, Clerk. By F. L. Hatch, Deputy Clerk.

In the District Court of the United States, in and for the District and Territory of Hawaii.

THOMAS ROE,

Libelant,

vs.

PACIFIC MAIL STEAMSHIP COMPANY (a Corporation),

Libelee.

Action for Damages for Breach of Contract—in Personam.

Answer of Defendant, Pacific Mail Steamship Company, to Libel of Thomas Roe.

To the Honorable SANFORD B. DOLE, Judge of the District Court of the United States in and for the District and Territory of Hawaii.

Now comes the Pacific Mail Steamship Company, a corporation, libelee herein, and for answer to the libel of Thomas Roe, libelant herein, avers and alleges:

1.

That it admits the allegations contained in paragraph I of said libel.

2.

In answer to the allegations contained in paragraph II of said libel, libelee admits that libelant was on or about the 16th day of October, 1905, at the port of Yokohama in the Empire of Japan, and desirous of proceeding to the port of San Francisco, but denies that he applied to libelee for a passage from said Yokohama to said San Francisco on the Steamship "Mongolia," and that the libelee, by its duly authorized agent, agreed to convey said libelant from said Yokohama to said San Francisco with all convenient speed or at all by said Steamship "Mongolia," save as hereinafter set forth, though admitting that it accepted said libelant on board said "Mongolia" as a passenger at said Yokohama.

3.

In answer to the allegations in paragraph III of said libel, libelee admits that on or about the 20th day of October it issued to libelant the steerage check therein referred to, but denies that said steerage check was a ticket or that it entitled libelant to passage to said San Francisco.

4.

Libelee admits the allegations contained in paragraph IV of said libel.

5.

Answering allegations contained in paragraph V of said libel, libelee admits that libelant went to the wharf where said "Mongolia" was moored as alleged in said libel, and that he was refused admittance to said "Mongolia," and that said "Mongolia" left said Honolulu and proceeded to San Francisco without libelant, but libelee denies that libelant was proceeding to go on board said "Mongolia" in accordance with any contract or agreement with libelee, or that libelee's refusal to permit him to go on board said "Mongolia" was in violation of any contract or agreement with libelant.

6.

Answering paragraph VI of said libel libelee denies that libelant did what he was lawfully required to do in order to go on said "Mongolia" as alleged, or that he presented himself within a reasonable time before sailing as a passenger; it denies that its refusal to take said libelant on board was in violation of any contract or agreement as alleged; it admits that libelant was left in Honolulu, but has not sufficient information to admit or deny that he was without money or means, and it denies that libelant has suffered great or any wrong or indignity or injury by reason of the breach of contract alleged or otherwise. Libelee also denies the allegations that all and singular the premises are true.

All denials heretofore made in this answer are subject to admissions hereafter made.

And as a further and separate answer to said libel, libelee alleges that in August, 1905, libelant signed articles with libelee in said San Francisco, whereby he agreed to ship as a seaman on libelee's Steamship "Barracouta" on a nine months' voyage to an unknown port in Siberia, at wages agreed on between libelant and libelee; that said "Barracouta," with libelant on board, embarked on said voyage; that said ship was later captured by the Japanese and the crew thereof, including libelant, were brought before a Japanese court, by which they were discharged; that thereafter, on or about the 16th day of October, 1905, at the instance of the captain of the "Barracouta," libelee took libelant and the rest of said crew on board said "Mongolia," intending to transport them to said San Francisco; that neither libelant nor anyone else paid anything for said transportation or any part of it; that on the arrival of said "Mongolia" in said Honolulu libelant left said "Mongolia" as hereinafter set out; that thereafter and before the bringing of this suit libelee offered to transport libelant to San Francisco on its Steamship "China," sailing from Honolulu some 8 days thereafter and being libelee's next steamship sailing from Honolulu to San Francisco after said "Mongolia," and to pay for libelant's board and lodging in said Honolulu

from the time of leaving of said "Mongolia" until the sailing of said "China," to which offer libelant paid no attention; that at all times in this paragraph mentioned libelant was entitled to wages under his articles with said libelee heretofore mentioned; that part of said wages were paid to libelee in said Yokohama before the sailing of said "Mongolia," and that the rest could have been secured by the libelant on his arrival in San Francisco.

8.

And as a further and separate defense to said libel, libelee alleges that before the arrival of said "Mongolia" in said Honolulu, the proper officials of the United States Marine Hospital Service in the Territory of Hawaii, acting under the laws of the United States and the Regulations of the United States Treasury Department issued a lawful, binding and valid order that steerage passengers on incoming steamships should not be allowed to land; that libelant was given notice of said order by libelee before he left said "Mongolia"; that he was told by said libelee's agents before he left said "Mongolia" that if he left he could not return to said "Mongolia"; that libelant, with full knowledge of said facts, forcibly left said "Mongolia" at said Honolulu, despite libelee's efforts to prevent him, though such efforts were made; that the officials of said United States Marine Hospital Service thereupon forbade libelee

to permit libelant to go on board said "Mongolia" again; that they refused to issue a clean bill of health to said "Mongolia" unless said libelant was excluded, and that in consequence of the foregoing facts libelant was rightly refused readmittance on board said "Mongolia."

9.

And as a further and separate defense to said libel, libelee alleges that even under the contract claimed to exist between libelant and libelee, and even assuming that libelant was taken on board said "Mongolia" by libelee as a passenger to be transported from said Yokohama to said San Francisco, there was no obligation on libelee to permit libelant to go ashore at said Honolulu; that libelant was forbidden to so go ashore by said libelee, and was told by said libelee that he could not return to the ship if he went ashore; that despite said orders by said libelee, libelant forcibly went ashore from said "Mongolia," and that in consequence of the foregoing facts libelee lawfully refused to permit libelant to again go on board said "Mongolia."

Wherefore libelee prays that it may be hence dismissed with its costs.

PACIFIC MAIL STEAMSHIP COMPANY,
By H. HACKFELD & COMPANY, LIMITED,
Its Agents.
By F. WM. KLEBAHN,
Secretary

Honolulu, Oahu,
Territory of Hawaii, ss.—

F. W. Klebahn, being first duly sworn, on oath deposes and says:

That he is secretary of H. Hackfeld & Company, Limited, the agents of the Pacific Mail Steamship Company, Limited, in this jurisdiction, and has full authority to make this affidavit on behalf of said Pacific Mail Steamship Company, Limited; that he has read the foregoing answer and knows the contents thereof, and that the same is true, except as to those matters and things which are therein stated on information and belief and as to such matters he believes them to be true.

F. WM. KLEBAHN.

Subscribed and sworn to before me this 27th day of November, A. D. 1905.

[Seal] GUSSIE H. CLARK,
Notary Public First Judicial Circuit.

[Endorsed]: Title of Court and Cause. Answer of Deft. Pacific Mail S. S. Co. Filed Nov. 27, 1905. W. B. Maling, Clerk.

In the District Court of the United States, in and for the District and Territory of Hawaii

GEORGE M. MORRISSEY,

vs.

PACIFIC MAIL STEAMSHIP COMPANY (a Corporation).

In Admiralty—Libel—In Personam—Action for Damages for Breach of Contract.

Libel of George M. Morrissey.

To the Honorable SANFORD B. DOLE, Judge of the District Court of the United States in and for the District and Territory of Hawaii.

The libel and complaint of George M. Morrissey, of San Francisco, in the State of California, a citizen of the United States of America, against the Pacific Mail Steamship Company, a foreign corporation, owners of the Steamship "Mongolia," in a cause for breach of contract, civil and maritime, alleges as follows:

I.

That the Pacific Mail Steamship Company was and is a corporate duly incorporated under the laws of the State of New York owning and controlling the Steamship "Mongolia," a regular passenger and freight steamer sailing between the port of San Francisco in the State of California in the United States of America, and certain ports and places in the Empires of Japan and China, and from said last

ports and places to said San Francisco and the said Pacific Mail Steamship Company were and are the owners and controlled and operated said steamship at all times hereinafter stated in this libel.

II.

That this libelant, George M. Morrissey, on or about the 16th day of October, A. D. 1905, being then at the port of Yokohama in the Empire of Japan, and being desirous of proceeding to the port of San Francisco in the State of California, applied to the libelee for a passage from said Yokohama to said San Francisco on the Steamship "Mongolia," then about to leave the said port of Yokohama in Japan for the said port of San Francisco, and the said libelee, by its duly authorized agent, contracted and agreed to receive and accept the said libelant as a passenger on board said Steamship "Mongolia," and further contracted and agreed to convey this libelant from said port of Yokohama to said port of San Francisco on board said Steamship "Mongolia," and did, in pursuance thereof, on or about the 18th day of October, A. D. 1905, receive the said George M. Morrissey as a passenger on board said Steamship "Mongolia," and agreed to carry and convey him with all convenient speed by the said Steamship "Mongolia" from the said port of Yokohama to the said port of San Francisco as a passenger.

III.

That the Pacific Mail Steamship Company, upon application by this libelant, by its duly authorized agent, on or about the 20th day of October, A. D. 1905, issued to this libelant soon after leaving the port of Yokohama in the Empire of Japan the following steerage check or ticket:

"(2-1 05-3M) S. G 63

PACIFIC MAIL STEAMSHIP COMPANY.

Steerage Check.

Steamer: 'Mongolia.' Voy. 7

Name: G. M. Morrissey.

From Yokohama to San Francisco.

No. Ticket: 9114.

A. E. RENNIE,

Purser.

Good for this trip only—To be shown and returned when called for."

IV.

That the said Steamship "Mongolia" left the said port of Yokohama for the said port of San Francisco on or about the 18th day of October, A. D. 1905, with this libelant on board as a passenger, and arrived at this port of Honolulu on or about the 27th day of October, A. D. 1905, with this libelant still on board as a passenger. The said Steamship "Mongolia" having stopped at this port of Honolulu upon her said voyage to land freight and passengers and

to take freight and passengers from said port of Honolulu to said San Francisco.

V.

That the said Steamship "Mongolia" being about to leave this port of Honolulu on or about the 28th day of October, A. D. 1905, and continuing on her voyage to said port of San Francisco, this libelant went to the wharf at Honolulu where said Steamship "Mongolia" was moored and was proceeding to go on board said Steamship "Mongolia" to go to San Francisco in accordance with his contract and agreement as a passenger, but the said libelee, by its servants, agents and employees, in violation of its said contract and agreement, refused to allow this libelant to go on board the said Steamship "Mongolia" and to resume the said voyage as a passenger, and the said steamship thereafter left this port of Honolulu and proceeded on her voyage to said San Francisco without this libelant on board.

VI.

That this libelant did all that he was lawfully required to do in order to go on said Steamship "Mongolia" as a passenger on her voyage from Honolulu to said port of San Francisco, and applied for passage and presented himself as a passenger at a reasonable time before the sailing of the said Steamship "Mongolia," yet the said libelee, by its servants, agents and employees, in violation of the said con-

tract and agreement so entered into at Yokohama aforesaid, refused to take this libelant on board as a passenger, and this libelant was left in this port of Honolulu without any money or means of any kind wherewith to provide himself with the necessaries of life, and has suffered great wrong, indignity and injury by reason of the breach of said contract by the said Pacific Mail Steamship Company.

All and singular the premises are true and within the admiralty and maritime jurisdiction of the United States and of this Honorable Court, and this libelant further alleges that he is without money, property or the means to carry on this suit or to pay proctor, and prays that he may be allowed to file and conduct the same in forma pauperis in accordance with the Act of Congress, and that your Honor may order accordingly.

Wherefore he prays that a citation according to the course and practice of this Honorable Court in causes of admiralty and maritime jurisdiction may issue to the Pacific Mail Steamship Company, the owners of the said Steamship "Mongolia," citing and admonishing it to appear and answer all and singular the matters aforesaid, and that this Court will award this libelant the sum of one thousand dollars damages for the breach of the contract aforesaid, and decree and pronounce accordingly with interest and costs, and will give libelant such further

relief as in law and justice he may be entitled to receive.

Dated Honolulu, November 2d, A. D. 1905.

GEORGE M. MORRISSEY.

United States of America,
District and Territory of Hawaii,
Honolulu,—ss.

And now comes George M. Morrissey, the libelant above named, and being duly sworn on his oath deposes and says: That he has heard read the foregoing libel against the Pacific Mail Steamship Company, a corporation, and the facts and statements therein set forth and contained are just and true.

GEORGE M. MORRISSEY.

Sworn to at Honolulu, Island and County of Oahu, District and Territory of Hawaii, this 2d day of November, A. D. 1905.

[Seal] WILLIAM SAVIDGE,
A Notary Public, 1st Jud. Circuit, Territory of Hawaii.

Let process issue as prayed for without the filing of the bond for costs or the payment of the clerk's or marshal's fees and costs.

Dated this 3d day of November, A. D. 1905.

SANFORD B. DOLE,
Judge of the District Court of the United States in and for the District and Territory of Hawaii.

[Endorsed]: Title of Court and Cause. In Admiralty—In Personam—Libel. Filed Nov. 3, 1905. W. B. Maling, Clerk. By F. L. Hatch, Deputy Clerk.

UNITED STATES OF AMERICA.

In the District Court of the United States for the Territory of Hawaii.

Citation in re George M. Morrissey.

The President of the United States of America, to the Marshal of the United States of America, for the Territory of Hawaii, Greeting:

Whereas, a libel has been filed in the District Court of the United States for the Territory of Hawaii, on the 3d day of November, A. D. 1905, by George M. Morrissey vs. Pacific Mail Steamship Company in a certain action for damages civil and maritime, to recover the sum of $1,000.00 (as by said libel, reference being hereby made thereto, will more fully and at large appear) therein alleged to be due the said libelant and praying that a citation may issue against the said respondent, pursuant to the rules and practice of this Court: Now, therefore, we do hereby empower and strictly charge and command you, the said Marshal, that you cite and admonish the said respondent, if it shall be found in your District, that it be and appear before the said District Court, on Friday, the 10th day of November, A. D. 1905, at the courtroom in the city of Honolulu,

then and there to answer the said libel, and to make its allegations in that behalf; and have you then and there this writ, with your return thereon.

Witness the Honorable SANFORD B. DOLE, Judge of said Court, at the city of Honolulu, in the Territory of Hawaii, this 3d day of November, A. D. 1905, and of the Independence of the United States the one hundred and thirtieth.

[Seal] W. B. MALING,
Clerk.
By F. L. Hatch,
Deputy Clerk.

Return on Service of Writ.

United States of America,
District of Hawaii,—ss.

I hereby certify and return that I have served the annexed citation on the therein named Pacific Mail Steamship Company by handing to and leaving a true and correct copy thereof with a certified copy of libel with Wm. Pfotenhauer, director of H. Hackfeld Co., Ltd., agent of said company personally at Honolulu in said District on the 3d day of November, A. D. 1905.

E. R. HENDRY,
U. S. Marshal.
By F. L. Winter,
Chief Office Deputy.

[Endorsed]: Title of Court and Cause. Citation issued Nov. 3, 1905. Citation returnable Nov. 10, 1905. Geo. A. Davis, Proctor for Libelant. Filed Nov. 4, 1905. W. B. Maling, Clerk. By F. L. Hatch, Deputy Clerk.

In the District Court of the United States in and for the District and Territory of Hawaii.

IN ADMIRALTY.

GEORGE M. MORRISSEY,

Libelant,

vs.

PACIFIC MAIL STEAMSHIP COMPANY (a Corporation),

Libelee.

Action for Damages for Breach of Contract—In Personam.

Answer of Defendant, Pacific Mail Steamship Company, to Libel of George M. Morrissey.

To the Honorable SANFORD B. DOLE, Judge of the District Court of the United States in and for the District and Territory of Hawaii.

Now comes the Pacific Mail Steamship Company, a corporation libelee herein, and for answer to the libel of George M. Morrissey, libelant herein, avers and alleges:

1.

That it admits the allegations contained in paragraph I of said libel.

2.

In answer to the allegations contained in paragraph II of said libel, libelee admits that libelant was on or about the 16th day of October, 1905, at the port of Yokohama in the Empire of Japan and desirous of proceeding to the port of San Francisco, but denies that he applied to libelee for a passage from said Yokohama to said San Francisco on the Steamship "Mongolia," and that the libelee, by its duly authorized agent, agreed to convey said libelant from said Yokohama to said San Francisco with all convenient speed or at all by said Steamship "Mongolia," save as hereinafter set forth, though admitting that it accepted said libelant on board said "Monogolia" as a passenger at said Yokohama.

3.

In answer to the allegations in paragraph III of said libel, libelee admits that on or about the 20th day of October it issued to libelant the steerage check therein referred to, but denies that said steerage check was a ticket or that it entitled libelant to passage to said San Francisco.

4.

Libelee admits the allegations contained in paragraph IV of said libel.

5.

Answering the allegations contained in paragraph V of said libel, libelee admits that libelant went to the wharf where said "Mongolia" was moored as alleged in said libel, and that he was refused admittance to said "Mongolia," and that said "Mongolia" left said Honolulu and proceeded to San Francisco without libelant, but libelee denies that libelant was proceeding to go on board said "Mongolia" in accordance with any contract or agreement with libelee or that libelee's refusal to permit him to go on board said "Mongolia" was in violation of any contract or agreement with libelant.

6.

Answering paragraph VI of said libel, libelee denies that libelant did what he was lawfully required to do in order to go on said "Mongolia" as alleged, or that he presented himself within a reasonable time before sailing as a passenger; it denies that its refusal to take said libelant on board was in violation of any contract or agreement as alleged, it admits that libelant was left in Honolulu, but has not sufficient information to admit or deny that he was without money or means, and it denies that libelant has suffered great or any wrong or indignity or injury by reason of the breach of contract alleged or otherwise. Libelee also denies the allegations that all and singular the premises are true.

All denials heretofore made in this answer are subject to admissions hereafter made.

7.

And as a further and separate answer to said libel, libelee alleges that in August, 1905, libelant signed articles with libelee in said San Francisco whereby he agreed to ship as a seaman on libelee's Steamship "Barracouta" on a nine months' voyage to an unknown port in Siberia, at wages agreed on between libelant and libelee; that said "Barracouta" with libelant on board embarked on said voyage; that said ship was later captured by the Japanese and the crew thereof, including libelant, were brought before a Japanese court, by which they were discharged; that thereafter on or about the 16th day of October, 1905, at the instance of the captain of the "Barracouta" libelee took libelant and the rest of said crew on board said "Mongolia," intending to transport them to said San Francisco; that neither libelant nor anyone else paid anything for said transportation or any part of it; that on the arrival of said "Mongolia" in said Honolulu libelant left said "Mongolia" as hereinafter set out; that thereafter and before the bringing of this suit libelee offered to transport libelant to San Francisco on its Steamship "China," sailing from Honolulu some 8 days thereafter and being libelee's next steamship sailing from Honolulu to San Francisco after said "Mongolia," and to pay for libelant's board and lodging in said

Honolulu from the time of the leaving of said "Mongolia" until the sailing of said "China," to which offer libelant paid no attention; that at all times in this paragraph mentioned libelant was entitled to wages under his articles with said libelee heretofore mentioned; that part of said wages were paid to libelee in said Yokohama before the sailing of said "Mongolia" and that the rest could have been secured by libelant on his arrival in San Francisco.

8.

And as a further and separate defense to said libel libelee alleges that before the arrival of said "Mongolia" in said Honolulu, the proper officials of the United States Marine Hospital Service in the Territory of Hawaii, acting under the laws of the United States and the regulations of the United States Treasury Department issued a lawful, binding and valid order that steerage passengers on incoming steamships should not be allowed to land; that libelant was given notice of said order by libelee before he left said "Mongolia"; that he was told by said libelee's agents before he left said "Mongolia", that if he left he could not return to said "Mongolia"; that libelant, with full knowledge of said facts, forcibly left said "Mongolia" at said Honolulu, despite libelee's efforts to prevent him, though such efforts were made; that the officials of said United States Marine Hospital Service thereupon forbade libelee to permit libelant to go on board

said "Mongolia" again; that they refused to issue a clean bill of health to said "Mongolia" unless said libelant was excluded, and that in consequence of the foregoing facts libelant was rightly refused re-admittance on board said "Mongolia."

9.

And as a further and separate defense to said libel, libelee alleges that even under the contract claimed to exist between libelant and libelee, and even assuming that libelant was taken on board said "Mongolia" by libelee as a passenger to be transported from said Yokohama to said San Francisco, there was no obligation on libelee to permit libelant to go ashore at said Honolulu; that libelant was forbidden to so go ashore by said libelee, and was told by said libelee that he could not return to the ship if he went ashore; that despite said orders by said libelee, libelant forcibly went ashore from said "Mongolia," and that in consequence of the foregoing facts libelee lawfully refused to permit libelant to again go on board said "Mongolia."

Wherefore libelee prays that it may be hence dismissed with its costs.

PACIFIC MAIL STEAMSHIP COMPANY,
By H. HACKFELD & COMPANY, LIMITED,
Its Agents.
By F. WM. KLEBAHN,
Secretary.

Honolulu, Oahu,
Territory of Hawaii,—ss.

F. W. Klebahn, being first duly sworn, on oath deposes and says:

That he is secretary of H. Hackfeld & Company, Limited, the Agents of the Pacific Mail Steamship Company, Limited, in this jurisdiction, and has full authority to make this affidavit on behalf of said Pacific Mail Steamship Company, Limited; that he has read the foregoing answer and knows the contents thereof, and that the same is true, except as to those matters and things which are therein stated on information and belief and as to such matters he believes them to be true.

F. WM. KLEBAHN.

Subscribed and sworn to before me this 27th day of November, A. D. 1905.

[Seal] GUSSIE H. CLARK,
Notary Public First Judicial Circuit.

[Endorsed]: Title of Court and Cause. Answer of Deft. Pacific Mail S. S. Co. Filed Nov. 27, 1905. W. B. Maling, Clerk.

From Minutes United States District Court, Vol. 3, page 662. Thursday, January 4th, 1906.

No. 62.

ALFRED IVERSON,

vs.

PACIFIC MAIL STEAMSHIP CO.

Trial.

The above-entitled cause came on regularly this day for trial, proctors for both sides being present, and thereupon, upon consent of respective proctors for the libelant and libelee given in open court, it is hereby ordered that all the evidence given viva voce as well as by deposition given and read in this suit may be considered as given and read in each of the following suits, which are together with the above-entitled suit consolidated for the purposes of trial and that separate findings and decrees may be made and entered herein: John Kennedy vs. Pacific Mail Steamship Company; Patrick Murphy vs. Pacific Mail Steamship Company; George M. Morrissey vs. Pacific Mail Steamship Company; Thomas Roe vs. Pacific Mail Steamship Company; and thereupon it is ordered that each and all of the depositions on file herein be opened and read as evidence herein. And thereupon Charles F. Chillingworth is called, sworn and testifies on behalf of the libelant. And the hour for adjournment having arrived, the fur-

ther trial of this cause is continued until Saturday, January 6th, 1906, at 10 o'clock A. M.

From Minutes United States District Court, Vol. 3, page 663. Thursday, January 4th, 1906.

No. 64.

JOHN KENNEDY,

vs.

PACIFIC MAIL STEAMSHIP CO.

Trial.

The above-entitled cause came on regularly this day for trial, proctors for both sides being present, and thereupon, upon consent of respective proctors for the libelant and libelee given in open court, it is hereby ordered that all the evidence given viva voce as well as by deposition given and read in this suit may be considered as given and read in each of the following suits, which are together with the above-entitled suit consolidated for the purposes of trial and that separate findings and decrees may be made and entered herein: Alfred Iverson vs. Pacific Mail Steamship Company; Patrick Murphy vs. Pacific Mail Steamship Company; George M. Morrissey vs. Pacific Mail Steamship Company; Thomas Roe vs. Pacific Mail Steamship Company; and thereupon it is ordered that each and all of the depositions on file herein be opened and read as evidence

herein. And thereupon Charles F. Chillingworth is called, sworn and testifies on behalf of the libelant. And the hour for adjournment having arrived, the further trial of this cause is continued until Saturday, January 6th, 1906, at 10 o'clock A. M.

From Minutes United States District Court, Vol. 3, page 662. Thursday, January 4th, 1906.

No. 63.

PATRICK MURPHY,

vs.

PACIFIC MAIL STEAMSHIP CO.

Trial.

The above-entitled cause came on regularly this day for trial, proctors for both sides being present, and thereupon, upon consent of respective proctors for the libelant and libelee given in open court, it is hereby ordered that all the evidence given viva voce as well as by deposition given and read in this suit may be considered as given and read in each of the following suits, which are together with the above-entitled suit consolidated for the purposes of trial and that separate findings and decrees may be made and entered herein: Alfred Iverson vs. Pacific Mail Steamship Company; John Kennedy vs. Pacific Mail Steamship Company; George M. Morrissey vs. Pacific Mail Steamship Company; Thomas Roe vs.

Pacific Mail Steamship Company; and thereupon it is ordered that each and all of the depositions on file herein be opened and read as evidence herein. And thereupon Charles F. Chillingworth is called, sworn and testifies on behalf of the libelant. And the hour for adjournment having arrived, the further trial of this cause is continued until Saturday, January 6th, 1906, at 10 o'clock A. M.

From Minutes United States District Court, Vol. 3, page 663. Thursday, January 4th, 1906.

No. 66.

THOMAS ROE,

vs.

PACIFIC MAIL STEAMSHIP CO.

Trial.

The above-entitled cause came on regularly this day for trial, proctors for both sides being present, and thereupon, upon consent of respective proctors for the libelant and libelee given in open court, it is hereby ordered that all the evidence given viva voce as well as by deposition given and read in this suit may be considered as given and read in each of the following suits, which are together with the above-entitled suit consolidated for the purposes of trial and that separate findings and decrees may be made and entered herein: Alfred Iverson vs. Pacific Mail Steamship Company; John Kennedy vs. Pacific

Mail Steamship Company; George M. Morrissey vs. Pacific Mail Steamship Company; Patrick Murphy vs. Pacific Mail Steamship Company; and thereupon it is ordered that each and all of the depositions on file herein be opened and read as evidence herein. And thereupon Charles F. Chillingworth is called, sworn and testifies on behalf of the libelant. And the hour for adjournment having arrived, the further trial of this cause is continued until Saturday, January 6th, 1906, at 10 o'clock A. M.

From Minutes United States District Court, Vol. 3, page 644. Thursday, January 4th, 1906.

No. 67.

GEORGE M. MORRISSEY,

vs.

PACIFIC MAIL STEAMSHIP CO.

Trial.

The above-entitled cause came on regularly this day for trial, proctors for both sides being present, and thereupon, upon consent of respective proctors for the libelant and libelee given in open court, it is hereby ordered that all the evidence given viva voce as well as by deposition given and read in this suit may be considered as given and read in each of the following suits, which are together with the above-entitled suit consolidated for the purposes of

trial and that separate findings and decrees may be made and entered herein: Alfred Iverson vs. Pacific Mail Steamship Company; John Kennedy vs. Pacific Mail Steamship Company; Patrick Murphy vs. Pacific Mail Steamship Company; Thomas Roe vs. Pacific Mail Steamship Company; and thereupon it is ordered that each and all of the depositions on file herein be opened and read as evidence herein. And thereupon Charles F. Chillingworth is called, sworn and testifies on behalf of the libelant. And the hour for adjournment having arrived the further trial of this cause is continued until Saturday, January 6th, 1906, at 10 o'clock A. M.

Testimony.

Thursday, January 4th, 1906.

Morning Session.

The reading of the deposition of Albert Iverson, previously taken on behalf of libelant, was commenced, but was discontinued at the request of Mr. Davis, who wished to place Mr. Charles F. Chillingworth, who was then present in court, upon the witness-stand:

January 4th, 1905, 10:30 A. M.

CHARLES F. CHILLINGWORTH, called as a witness on behalf of libelants, being duly sworn, testified as follows:

Direct Examination.

Mr. DAVIS.—Q. You reside in Honolulu?

A. Yes.

Q. Island of Oahu, Territory of Hawaii?

A. Yes.

Q. Do you know Alfred Iverson?

A. I do.

Q. George M. Morrissey—these suits are all consolidated—John Kennedy, Thomas Roe and Patrick Murphy? A. Yes, sir.

Q. Did they come to your office here in Honolulu?

A. Yes, sir.

Q. Before the commencement of this suit?

A. Yes.

Q. About what time?

A. I couldn't say just what time; the date was prior to my going to your office, Mr. Davis.

Q. Before the filing of this libel, along in September, some time this year? A. Yes, sir.

Q. Now, did they make application to you for financial assistance or any assistance?

(Objected to by Mr. McClanahan as leading.)

Q. Did they make an application to you for anything?

(Testimony of Charles F. Chillingworth.)

(Objected to by Mr. McClanahan, as leading.)

The COURT.—Ask him what they did.

Mr. DAVIS.—I submit the question is perfectly competent.

The COURT.—It is leading.

Mr. DAVIS.—Question withdrawn. Q. Did they come to your office? A. They did.

Q. What took place?

A. They came over—I knew this man Iverson some years previous—and said they had been put off the "Mongolia" and didn't have any place to sleep and no place to eat, and after hearing what they had to say I went to your office and stated the facts to you, and then I wrote a note to the Palace Grill that I would be responsible for their food, and Captain Bray said he would have to put them out unless something was paid for their room—

Q. Who is Captain Bray?

A. The manager of the Sailors' Home; and they went along till the suits were filed by you, and the restaurant bill amounts to about $116.00. The bill at the Sailors' Home is $26.00.

Q. You assumed that obligation?

A. Yes, it was on my written order.

Q. You assumed that obligation, and agreed to pay that money on their account?

(Testimony of Charles F. Chillingworth.)

A. Yes, sir.

Q. What was that for?

A. For their food at the restaurant, and a place to sleep.

Q. And the $26.00?

A. For sleeping at the Sailors' Home.

Q. That is how much altogether, that you agreed to pay? A. About $142.00.

Q. Did you advance them any other money while they were here?

A. Oh, probably two or three dollars, not more.

Q. Two or three dollars apiece?

A. No, to the crowd.

Q. You gave them that—what for?

(Objected to by Mr. McClanahan as immaterial. Objection overruled.)

A. Alfred Iverson wished to return to the coast on the "Sonoma," and in order to have him go on the "Sonoma" he had to go to the quarantine station, and had to pay for his own food over there, so I gave him $3.00 altogether.

Q. Did you give the rest of them anything?

A. No, sir.

Q. You gave them no money besides that?

A. That is all, sir.

Q. Anything else you remember of, that you paid, Mr. Chillingworth? A. No, that is all.

(Testimony of Charles F. Chillingworth.)

The COURT.—Was there only one man who went to Quarantine, and wanted money for it?

A. Yes, Alfred Iverson.

Mr. DAVIS.—Q. Now, you paid the United States Commissioner for taking the depositions, didn't you, and agreed to pay him some more?

A. I gave it to you.

Q. Well, how much?

(Objected to by Mr. McClanahan. Objection sustained and question withdrawn.)

Q. Was anything said about this money being repaid?

A. My talk was with Iverson. Iverson agreed that in case they should get any damages that he would pay what was due me, and if not he would write to me from San Francisco, and gave his address.

Q. Have the others made a like agreement?

A. They were in the room at the time.

A. And all acquiesced? A. Yes.

Q. They had no money—did they say to you they had no money—what did they say about their financial condition?

A. They said they did not have anything, and I didn't think it was going to last that long; I thought it would only be a few days when they would get a ship and get out.

(Testimony of Charles F. Chillingworth.)

Q. You know how they got away?

A. I got one man off on the "Sonoma."

Q. How about the others?

A. Got a berth aboard as steward, I think.

Q. The others?

A. Two went up on the "Argyle" as stewards.

Q. That is three?

A. I don't know how the other two went; they have gone. Iverson notified me they were gone.

Q. They didn't go on the Pacific Mail boats, did they? A. Not that I know of.

Cross-examination.

Mr. McCLANAHAN—Q. Wasn't there a man named Miller, that came with Iverson and the others? A. Yes.

Q. You forgot to name him?

A. I was only asked as to these five.

Q. So Miller was one of the party? A. Yes.

Q. Miller, Iverson, Kennedy, Roe, Morrissey and Murphy. Iverson was the only man that you knew?

A. Yes, he was the spokesman.

Q. Well, I understood you to add you had known him for a number of years? A. I so stated.

Q. Did you deal with them because of this friendship with Iverson? A. No.

Q. What was the consideration that prompted you to obligate yourself in this matter?

(Testimony of Charles F. Chillingworth.)

A. Well, they came to me and asked me if I could help them, and to get a lawyer to sue the steamship, and I took the case to Mr. Davis.

Q. So at the first visit they came with a proposition to sue the steamship company?

A. Yes. To see Hackfield & Company, and if they would do anything towards their expenses.

Q. Which course did you pursue?

A. I went down to see Mr. Klebahn.

Q. Did you see Mr. Klebahn?

A. Yes. I asked him what they were going to do about sending these men back to the coast.

Q. When was this, about the 27th?

A. I couldn't say.

Q. The day they arrived?

A. I think the day after.

Q. That was after the steamer had sailed?

A. Yes.

Q. Then you went to see him about his providing means of transportation to San Francisco, and taking care of the men while here? A. Yes.

Q. What took place?

A. Mr. Klebahn said he could not do anything.

Q. What did you say to him?

A. I said: "All right."

Q. I mean in the first instance; how did you open the conversation?

(Testimony of Charles F. Chillingworth.)

A. I said there are a lot of men left out from the "Mongolia," and it seems they were not allowed to go aboard the ship for some reason or other, and they want to know what you are going to do about it.

Q. Did you lay before him the proposition of the men, that is, did you ask him whether he would send them back to San Francisco on another boat, and keep them while here?

A. That is what I told him.

Q. That was one of their propositions, wasn't it?

A. Yes.

Q. And you told Mr. Klebahn that?

A. Yes.

Q. And he said he could not do anything for them?

A. I think at first he said he would see about it, and see what arrangements he could make.

Q. As a matter of fact didn't he say he would see you on Monday, he was too busy then?

A. No.

Q. He said he would see you again?

A. Yes.

Q. When did you next see him again?

A. I don't think I saw him again.

Q. Why not?

A. I saw Mr. Davis, and Davis went to see him.

Q. When Mr. Klebahn was to give you an answer, have you no other reason than that you saw Mr. Davis? A. No.

(Testimony of Charles F. Chillingworth.)

Q. Well, between the time of your seeing Mr. Klebahn, and his telling you he would see you again, what contract, if any, did you make with these men?

(Objected to by Mr. Davis as irrelevant, incompetent and immaterial. Objection overruled.)

A. I think it was after I saw Mr. Davis that I told him that I would pay all the expenses of the detention, attorney's fees, for half of whatever damages were awarded.

The COURT.—Who did you tell that to?

A. The men.

Mr. McCLANAHAN.—Q. Didn't they enter into a written contract with you?

A. I may have it down at the office: I am not sure.

Q. Are you not sure of it?

A. I am not. For the simple reason that it wasn't handed over to me.

Q. By the men? A. Yes.

Q. Who drew the contract?

A. I don't really remember.

Q. Will you please produce the contract?

A. I will try and find it.

(Mr. Davis objected to the introduction of the contract, but after argument withdrew the objection.)

(Testimony of Charles F. Chillingworth.)

Mr. McCLANAHAN.—Q. Will you please produce that this afternoon, Mr. Chillingworth?

A. I will.

Q. Was it not because of the contract which you have spoken of that you did not return to see Mr. Klebahn? A. No.

Q. What was your reason—I don't understand that you have given one?

A. I said I had seen Mr. Davis in the meantime, and asked him, Mr. Davis, to appear for the men, and have him—

Q. That doesn't answer my question quite clearly. Please state your reason, if the entering into the contract was not the reason, what was your reason for not going back and receiving his reply to the proposition?

A. The contract was not entered into till after the suits were filed.

The COURT.—Why didn't you go back to Mr. Klebahn?

A. In the meantime I saw Mr. Davis, and asked him to go and see Mr. Klebahn.

Mr. McCLANAHAN.—Q. Then this matter of dealing with Mr. Klebahn you turned over to Mr. Davis? A. I did.

(Testimony of Charles F. Chillingworth.)

Q. He, then, at that time had been employed by you, for the men? A. Yes, sir.

Q. And you and the men had at that time entered into a tentative arrangement, which was afterwards put in writing?

A. At the time that I spoke to Mr. Davis, and Mr. Davis went down to Mr. Klebahn, there was no understanding at all.

Q. With whom? A. With the men.

Q. Where did you get your authority to employ counsel for them? A. From Iverson.

Q. Mr. Iverson told you to employ counsel, after the visit which you made to Mr. Klebahn?

A. Well, after I saw Mr. Klebahn I met Mr. Davis, and I told Iverson that I would ask Mr. Davis to go down and see Mr. Klebahn for them in the matter, and they said all right, and after that Mr. Iverson went over to Mr. Davis' office.

Q. He was acting for the other libelants?

A. He was supposed to; he did all the talking. He was acting for them; he was doing all the talking.

Q. And you got your instructions from him, under which you acted for all the men?

A. Yes, sir.

The COURT.—He stated in the beginning of his cross-examination that they came to him and wanted to get a lawyer, and wanted to have the agents seen.

(Testimony of Charles F. Chillingworth.)

It was evidently a request, without anything in the nature of a contract.

Mr. McCLANAHAN.—Q. Had you, Mr. Chillingworth, reported to Iverson and the men the result of your interview with Klebahn?

A. I had.

Q. The same day? A. Yes.

Q. And the same day you saw Mr. Davis?

A. Yes.

Q. And he saw Mr. Klebahn the same day?

A. I think he did.

Q. And that was before the suit was commenced?

A. Before; yes.

Q. When these men first came to you, am I to understand that you say they stated that they had been put off the boat?

A. No; that they could not go aboard the boat. They were refused the right to go aboard.

Q. What else did they tell you about the matter?

A. They said they had met the purser the night previous, the night the steamer was here, and the purser told them they had better go right down aboard the ship, otherwise they can't go aboard; they went down and couldn't go aboard, and waited around till morning, and couldn't go aboard.

Q. Didn't they tell you why?

A. They said they were prevented—

(Testimony of Charles F. Chillingworth.)

Q. You are a lawyer, are you not?

A. Well, a lawyer—I practice in the District Court.

Q. Didn't you ask them why they couldn't go aboard?

A. As a matter of fact I had heard during the forenoon that it was through some regulation or other of quarantine.

Q. Didn't you mention that to them?

A. I am not sure; I think I did.

Q. Didn't they mention it to you, as the reason why they couldn't go aboard?

A. I don't think so, I think it came from me.

Q. You mean that you informed them for the first time that they could not go aboard because of the quarantine regulation?

A. I don't know whether that was the first time they got the information, but when they told me, I said it was probably on account of the regulation. I had heard also that Mr. Atkinson and a few others were prevented from going on account of the regulation.

Q. When you went to Mr. Klebahn you knew why the men were not allowed to go on board?

A. Yes.

Q. You and Mr. Klebahn talked it over?

(Testimony of Charles F. Chillingworth.)

A. Yes; he told me that the doctor had given orders the men were not to go ashore.

Q. Did you know these men were members of the crew of the "Barracouta"?

A. They told me they were.

Q. And that they were bound to the port of departure, San Francisco?

A. Well, they said the "Barracouta" was chartered by an English company, and was seized, and they were given tickets to go home to San Francisco.

Q. When you spoke to Mr. Klebahn, didn't you ask him if they could not be sent home on the "China," the next steamer coming in?

A. I think so.

Q. Did you tell him these men were under articles, and were entitled to return passage to San Francisco?

A. I did not. I didn't know they were under articles.

Q. What was your theory in demanding passage on the "China" and their keep while here?

A. At that time I had no idea that the men had any idea of suing at that time. I was in the office, and I couldn't do anything with it, and I went to Mr. Klebahn and told him the men wanted to go back and could he make arrangements. He said he was so busy—it was their own fault. I told Mr.

(Testimony of Charles F. Chillingworth.)

Klebahn what the men had told me, and he wanted to look the matter up, saying the steward had notified them not to go ashore, and I said I didn't know about that.

Q. What was your reason for asking that the Pacific Mail Company pay for the keep of these men and return them on the "China" to San Francisco?

A. Because several was left from one of the Pacific Mail steamers, and I thought it was up to them to take care of them.

Q. You knew that the quarantine regulations forbid the steerage passengers to leave the ship?

A. I know the passengers had gone ashore.

Q. Now, what was your reason, in the face of this knowledge, that the quarantine regulation prevented them from going on the ship, what was your reason that the Pacific Mail Company ought to return them to San Francisco?

A. I thought that the regulation was not a published regulation, and I didn't know that regulation issued from the Board of Health; furthermore, the men informed me that members of the crew had gone ashore and got aboard.

Q. You didn't see why there should be discrimination? A. Exactly.

Q. And you doubted the validity of the regulation? A. Yes.

(Testimony of Charles F. Chillingworth.)

(Mr. Davis objected to the above as being improper cross-examination, irrelevant and immaterial, and moved that the last four questions and answers be stricken out. Objection overruled and motion denied.)

Mr. DAVIS.—Exception.

Mr. McCLANAHAN.—Q. You knew Mr. Miller returned on the "China," did you not?

A. I think he did.

Q. You knew that a proposition was made to all of those men to return them on the "China" and to pay their keep, that is, their proposition was finally accepted by Mr. Klebahn, was it not?

A. I don't know.

Q. Didn't you know of their receiving written notification from Mr. Klebahn that they could go on the "China," and an offer to pay for their keep, and that Miller was the only one that accepted it?

A. I am not sure, but I think there was.

Q. And Miller was the only one that accepted?

A. Yes.

Q. And he returned on the "China"?

A. That is my recollection.

Q. And Miller's board at the Sailors' Home was paid, wasn't it, by Hackfeld & Co.?

(Objected to by Mr. Davis as not being material. Question withdrawn.)

(Testimony of Charles F. Chillingworth.)

Q. This man Miller sued the company with the other five, did he not?

(Objected to by Mr. Davis as not proper cross-examination.)

The COURT.—I want to ask you as to the time of this proposition that was made by Hackfeld & Co., to take these sailors on the "China," and to pay for their keep till they went. Was that before the suits were begun, or after?

A. I couldn't say. In reference to this proposition from H. Hackfeld & Co. my information, I think, comes from Mr. Davis.

Mr. McCLANAHAN.—Q. Did I understand you to say that you had paid this money?

A. Which money?

Q. $142.00?

A. I paid $10.00 to the restaurant, and I have had a demand from Mr. Dee for the balance; I promised to pay it last Saturday, but I didn't have the money.

Q. That is, you paid $10.00 of the $116.00?

A. Yes.

Q. How much of the $26.00 have you paid?

A. I haven't paid any, yet, I owe it.

Q. You have paid nothing of the $26.00, and $10.-00 of the $116.00? A. Yes.

(Testimony of Charles F. Chillingworth.)

Q. And your obligation to pay is under this contract, which you will produce this afternoon?

A. Well, I wrote a note to Captain Bray, that I would be responsible for the bill.

Q. And that note was written because of this contract?

A. No; if I remember correctly that contract was made after the suits were filed.

Q. I want to know why you incurred, or agreed to incur this obligation?

A. Well, practically the same thing under this contract, only the contract was not made till afterwards, but I thought it would be.

Q. It was a tenative contract, afterwards put in written form?

A. Yes. I think it is a power of attorney; I didn't draw it up.

Q. Who did draw it up?

A. I don't know. I may say that when I first saw Iverson, he came to the office now and then—

(The witness was here excused until 2 o'clock, at which time he was requested to bring the contract above referred to.)

January 4th, 1906, 2 P. M.

Cross-examination of CHARLES F. CHILLINGWORTH (Continued).

Mr. McCLANAHAN.—(Showing paper to wit-

(Testimony of Charles F. Chillingworth.)

ness.) Q. Is this the instrument, Mr. Chillingworth, that you were asked to produce?

A. Yes, sir.

Mr. McCLANAHAN.—We offer in evidence power of attorney from Alfred Iverson, Thomas Roe, Henry Miller, Patrick Murphy, John Kennedy, George M. Morrissey and Harry Baker, to Charles F. Chillingworth, bearing date the 30th of October, 1905, identified and produced by the witness.

(Mr. Davis objected to the document being admitted in evidence, and after argument the Court stated that it would be admitted in evidence for what it was worth).

Mr. McCLANAHAN.—Q. Is that the only written contract between you and the libelants?

A. Yes.

Q. Is that the only contract of any kind between you and the libelants? A. Yes.

Q. I am not speaking of written contracts. I am speaking of verbal or written?

A. I think the best way to answer that is to state what took place. When we first spoke about this matter I gave an order on the Palace Grill to Saturday, to give these men food until Saturday, and in the meantime I asked Mr. Davis to rush the suits along as quickly as we could, so as to get these men

(Testimony of Charles F. Chillingworth.)

away, because I couldn't afford it, and the thing hung fire—and it seems Mr. Klebahn, as I understood from Mr. Davis—the week would be up and the Chinaman would come, or Iverson would, and the Chinaman wanted something on account. I told Iverson and the rest of the boys in the office there. I asked if they had any money at all. They said they were put ashore without a cent; as soon as they got to San Francisco they would fix it all right, because I treated them white. About the date of that instrument Mr. Davis told me I had better be careful, and had I made any arrangements about the fees and about the damages if they got any; I said no, I have not. He said he would fix it,and some time afterwards Mr. Savidge came to me and asked me to look over that piece of paper, and I signed my name to it and gave it back to him, Mr. William Savidge, and I understand he gave it to my father, who put it in his tin box.

Q. I want to know if you have any verbal contract with any one or all of these men?

A. The only understanding with Iverson was he said he would fix it all right with me; I had treated them white, and he would see I wouldn't lose anything.

The COURT.—That is an answer to his question.

Mr. McCLANAHAN.—Q. That is the promise of Iverson? A. Yes.

(Testimony of Charles F. Chillingworth.)

Q. I want to know whether that was made before or after you incurred that obligation?

A. The expenses had gone along probably a week or so.

Q. So at the time when he incurred that obligation you did it without any promise on the part of Iverson to repay you?

A. Not right on the Saturday, but after I saw the thing lengthening out to the week I told him.

Q. Have you had any other promise of indemnity on the part of the other libelants, to reimburse you?

A. No, my talk was with Iverson.

Q. You don't know whether Iverson had any authority to act for the other men?

A. As I said, he acted as spokesman.

The COURT.—Were the other men present when you had this last conversation?

A. In nearly all my talks with Iverson the other men were there, except towards the last.

Mr. McCLANAHAN.—Q. This conversation was towards the last? A. No, the first week.

Q. Your first order on the Sailers' Home was dated Monday, was it not, following the time the "Mongolia" was in port?

A. I am not sure; I think it was.

Q. Was it not for an obligation to be responsible for their keep at the Sailors' Home until the following Saturday?

(Testimony of Charles F. Chillingworth.)

A. Yes, that is what I testified.

Q. Until the following Saturday?

A. Yes.

Q. Then on that following Saturday you gave another paper to Captain Bray, in which you obligated yourself to pay until the next Monday, did you not?

A. I think that was it.

Q. Then what happened after that, between you and the Sailors' Home? A. The same thing.

Q. Did you give any further writing?

A. I am not sure; I think I did. I think Captain Bray came up to see me.

Q. Well, now, Mr. Chillingworth, isn't it a matter of fact that these men are not obligated to pay you anything, except in the event of their winning this suit and getting damages?

A. As I have testified, the only understanding I have had with Iverson is just as I have testified. He said he would see that I was all right, that I had treated them right, had given them tobacco and different things, and would write to them in San Francisco, and let them know. Nothing else.

Q. Nothing else except this power of attorney?

A. That is right.

Redirect Examination.

Mr. DAVIS.—Q. You had paid that money, and expect to get that money back from these libelants?

(Testimony of Charles F. Chillingworth.)

A. If I can.

Q. And you look to them for payment?

A. Well, as I have testified, Mr. Iverson said to me he would see that I was treated white, and seemed sincere about it.

Q. Well, you look to them for payment of the money? A. I looked to Iverson.

Q. And the rest of them?

A. Well, as spokesman for the rest.

Recross-examination.

Mr. McCLANAHAN.—Q. You say, Mr. Chillingworth, that you look to the rest of the men for repayment of the money?

A. I look to Iverson, and I presume he will go to the rest of the men.

Q. As a matter of fact you don't know where these other fellows have gone to, do you?

A. I know where three have gone.

Q. Where? A. To San Francisco.

Q. Have you their addresses? A. I have.

Q. Have you the address of the other two men?

A. No, I don't know.

Q. You know where Miller has gone?

A. I understand Miller was taken in tow by Mr. Klebahn; I was informed Mr. Klebahn had arranged it.

Q. You know where Baker has gone?

(Testimony of Charles F. Chillingworth.)

A. Baker is on the Rapid Transit.

Q. Did Baker ever pay you any money to reimburse you? A. He never brought any suit.

Q. Irrespective of the suit, has Baker reimbursed you for any obligation paid on your part for his behalf?

(Objected to by Mr. Davis as not proper recross-examination. Objection sustained.)

Here the reading of the deposition of Alfred Iverson was continued, and was followed by the reading of the deposition of Patrick Murphy, previously taken on behalf of libelant, at the conclusion of which the reading of the deposition of John Kennedy, previously taken on behalf of libelant was commenced.

At 4 P. M. the trial of this cause was continued, being again taken up on Monday, the 8th day of January, 1906, at which time the reading of the deposition of John Kennedy was continued, followed by the reading of the deposition of George M. Morrissey, previously taken on behalf of libelant, which, in turn, was followed by the reading of the deposition of Thomas Roe, previously taken on behalf of libelant.

It was here admitted that Mr. Geo. A. Davis paid out $135.00 for transportation to San Francisco and return and $75.00 for incidental expenses, but the materiality of such claim was disputed by proctor for libelee.

Mr. Davis here submitted the libelant's case.

It was ordered, on agreement of counsel, that one of the depositions taken in San Francisco be read, and that it shall apply to the remaining four cases, but that the other depositions, being on file, are subject to examination by either counsel or the Court, in argument and determination of the cause.

The depositions of the following named witnesses, taken in San Francisco, on behalf of the libelee, were here read in the following order: Charles A. Miller; Harry Jensen, J. Ramo, T. De La Torre, Francisco Guardado, Louis Alonzo, Edward Rosas, Domingo Martinez, Joseph Medina, Jose Ferdandez.

The deposition of A. E. Rennie, previously taken in Honolulu, on behalf of the libelee, was here read.

From Minutes United States District Court, Vol. 3, Page 671. Monday, January 8th, 1906.

No. 62.

ALFRED IVERSON,

vs.

PACIFIC MAIL STEAMSHIP CO.

Trial (Continued).

Now on this day again came proctors for each side and the trial of this cause is proceeded with by the further introduction of evidence. And the hour for adjournment having arrived, the further trial is continued until Tuesday, January 9, 1906, at 10 o'clock A. M.

From Minutes United States District Court, Vol. 3, Page 672. Monday, January 8th, 1906.

No. 64.

JOHN KENNEDY,

vs.

PACIFIC MAIL STEAMSHIP CO.

Trial (Continued).

Now on this day again came proctors for each side and the trial of this cause is proceeded with by the further introduction of evidence. And the hour for adjournment having arrived, the further trial is continued until Tuesday, January 9, 1906, at 10 o'clock A. M.

From Minutes United States District Court, Vol. 3, Page 671. Monday, January 8th, 1906.

No. 63.

PATRICK MURPHY,

vs.

PACIFIC MAIL STEAMSHIP CO.

Trial (Continued).

Now on this day again came proctors for each side and the trial of this cause is proceeded with by the further introduction of evidence. And the hour for adjournment having arrived, the further trial is

continued until Tuesday, January 9, 1906, at 10 o'clock A. M.

From Minutes United States District Court, Vol. 3, Page 672. Monday, January 8th, 1906.

No. 66.

THOMAS ROE,

vs.

PACIFIC MAIL STEAMSHIP CO.

Trial (Continued).

Now on this day again came proctors for each side and the trial of this cause is proceeded with by the further introduction of evidence. And the hour for adjournment having arrived, the further trial is continued until Tuesday, January 9, 1906, at 10 o'clock A. M.

From Minutes United States District Court, Vol. 3, Page 672. Monday, January 8th, 1906.

No. 67.

GEORGE M. MORRISSEY,

vs.

PACIFIC MAIL STEAMSHIP CO.

Trial (Continued).

Now on this day again came proctors for each side and the trial of this cause is proceeded with by the

(Deposition of Alfred Iverson.)

further introduction of evidence. And the hour for adjournment having arrived, the further trial is continued until Tuesday, January 9, 1906, at 10 o'clock A. M.

Depositions.

ALFRED IVERSON, a witness for the libelant, sworn and examined in the city of Honolulu, before Walter B. Maling, a United States Commissioner for the District and Territory of Hawaii, on the 4th day of November, A. D. 1905, gave testimony as follows:

Direct Examination.

Mr. DAVIS.—Q. What is your name?

A. Alfred Iverson.

Q. Are you a citizen of the United States?

A. Yes, sir.

Q. Where from? A. San Francisco.

Q. Is this your home now? A. Yes, sir.

Q. On the 16th of October where were you?

A. On the 16th of October, in Yokohama.

Q. In Japan? A. Yes, sir.

Q. Were you about to make a voyage, and if so, where?

A. About to make a voyage to San Francisco.

Q. Did you apply for passage?

A. Yes, sir, I applied to our captain.

(Deposition of Alfred Iverson.)

Q. In consequence of the application did you receive any ticket?

A. No, sir, not till I got aboard the Steamer "Mongolia."

Q. You did get aboard the Steamer "Mongolia"?

A. Yes, sir.

Q. Did you get a ticket then?

A. Yes, sir.

Q. Where is the ticket now?

A. Well, that ticket I gave to the steward—the steward and the purser came round collecting tickets.

Q. Where did you get the ticket that you had?

A. I got that from the chief mate.

Q. And the steward on board the "Mongolia" after you left Yokohama collected this ticket and gave you a check? A. The purser did.

Q. Is this the check? (Showing.)

A. Yes, sir.

(Mr. Davis here offered the check referred to in evidence, and asked that it be marked Plaintiff's Exhibit No. 1, which was allowed by the Commissioner. The check referred to is in the words and figures following:)

(Deposition of Alfred Iverson.)

Plaintiff's Exhibit No. 1.

(2-1-05-3 M) S. G. 63

PACIFIC MAIL STEAMSHIP CO.,

Steerage Check.

Steamer: "Mongolia." Voy. 7.

Name: A. Iverson.

From Yokohama to San Francisco.

No. Ticket: 9104.

A. E. RENNIE,

Purser.

Good for this trip only. To be shown and returned when called for.

Mr. DAVIS.—Q. Now, that check was given to you how many days after you left Yokohama?

A. Probably about—around three days, about the 20th, or probably close to it.

Q. Then you say that check was given to you by the steward or one of the officers on board the "Mongolia"? A. Yes, sir.

Q. Who was it?

A. The purser. The purser and steward both came around together.

Q. When did you arrive in Honolulu?

A. I arrived on the 27th of October.

Q. About what time?

A. Well, we got in a little after 11 o'clock.

(Deposition of Alfred Iverson.)

Q. Did the "Mongolia," when she arrived here, did she go to her wharf, or what?

A. Yes, sir, she went to her dock.

Q. And was moored? A. Yes, sir.

Q. And did you go ashore?

A. Not right away, sir; not till they had the gangway ashore.

Q. How long after she was moored did you go ashore?

A. Well, about two hours and a half or two hours.

Q. You came ashore here in Honolulu?

A. Yes, sir.

Q. Did anybody make any objection to you coming ashore? A. No, sir.

Q. How long did you stay on shore?

A. I had to stay ashore all that night.

Q. But I mean before you went back to your vessel?

A. Well, I stayed ashore about an hour and a half—about two hours.

Q. And then started to go back to the vessel?

A. Yes, sir.

Q. Now, where did you go? Down to the dock?

A. Yes, sir.

Q. Started to go on board the vessel?

A. Yes, sir. I was stopped at the gate.

Q. Who stopped you?

(Deposition of Alfred Iverson.)

A. The quartermaster and the watchman.

Q. What quartermaster?

A. The quartermaster of the steamer "Mongolia."

Q. What did he say?

A. He told us that he got orders not to let any one of us aboard the ship.

Q. That was the same day you came ashore?

A. Yes, sir.

Q. Did you go back and try to get aboard any other day?

A. We went back that night again.

Q. What time that night?

A. Nine o'clock; and they refused again.

Q. Who stopped you then?

A. The quartermaster himself and a different man, a man from Honolulu, who was with him.

Q. Did you try to get aboard again?

A. Yes, sir.

Q. When? A. When, 9 o'clock that night.

Q. When after that?

A. Oh, he told us we was to come down the next morning at 9 o'clock.

Q. What day?

A. That was on the 28th.

Q. And did you go back on the 28th?

A. Yes, sir.

Q. What happened then?

(Deposition of Alfred Iverson.)

A. The man at the gate there stopped us.

Q. Who stopped you?

A. This watchman and the quartermaster, at the gate.

Q. There was the quartermaster at the gate?

A. Yes, sir.

Q. He stopped you?

A. He told us we would have to wait till 9 o'clock and we waited and they said they would leave us aboard when the doctor came, and we thought we could get aboard and we waited around and one of the men came ashore and told us they were packing—

Q. He refused to allow you to go on board?

A. Yes, sir.

Q. What time did the vessel sail on that day?

A. Between 11 and half-past 11.

Q. How many applications did you make to get on board? A. I made more than two.

Q. More than two; what is the reason you didn't get on board? A. I was refused.

Q. By whom?

A. By the quartermaster and the watchman at the gate.

Q. Did you see anything of your baggage?

A. After the ship left we was allowed on the dock.

(Deposition of Alfred Iverson.)

Q. No, but did you see anything before the ship left? A. No, sir.

Q. After the ship left, what about your baggage?

A. It was left on the dock.

Q. The "Mongolia" sailed at what time?

A. Between 11 and half-past 11.

Q. Did you stay there from 9 until the vessel sailed? A. Yes, sir.

Q. And couldn't get on board? A. No, sir.

Q. Your destination was San Francisco?

A. Yes, sir.

Q. And the vessel left on that day for San Francisco? A. Yes, sir.

Q. Had you any means when you came ashore?

A. No, sir.

Q. No money? A. No, sir.

Q. And you have been compelled to stay here in Honolulu—have you been compelled to stay in Honolulu since that date until the present time?

A. Yes, sir.

Q. Where have you been staying?

A. Been staying at the Sailors' Home.

Q. Who has been supplying money—how have you been—

A. My lawyer has been supplying the money. Mr. Chillingworth.

Q. Mr. Charles F. Chillingworth?

(Deposition of Alfred Iverson.)

A. Yes, sir.

Q. You borrowed money from him?

A. Yes, sir.

Q. Where have you been sleeping?

A. Been sleeping there, but eat in the Palace Restaurant.

Q. Eat in the restaurant and slept in the Sailors' Home; how much did it cost you?

A. One dollar a day.

Q. Where is your clothes?

A. Down at the Sailors' Home now.

Q. Had you any business in San Francisco when you left there, except to work around—

A. No, sir; only generally following up steamships.

Q. Now, you did intend to go to work as soon as you got to San Francisco? A. Yes, sir.

Q. You claim $1,000.00 damages in this libel?

A. Yes, sir.

Q. You feel that you have suffered that amount of damage? A. Yes, sir.

Q. Would you be compensated if $1,000.00 was allowed you for the damages you have sustained?

A. Yes, sir.

Q. What damages have you sustained—do you feel you have sustained, in this action, by reason of the wrongful act of the Pacific Mail Company?

(Deposition of Alfred Iverson.)

A. Well, I was put ashore here, had no money to keep myself, and no chance of getting work, or anything, and didn't have nobody to rely upon.

Q. Well, what damages do you feel you have sustained, what amount of money?

(Objected to by Mr. McClanahan.)

A. One thousand dollars' damages.

Q. Have you tried to get work since you have been here?

A. Yes, sir, I tried at the Honolulu Iron Works, but they seem to be full handed.

Q. And you couldn't get any employment?

A. No, sir.

Q. But you did make application?

A. Yes, sir, tried to get work.

Q. Were you acquainted with some of the steerage passengers on board the "Mongolia" that came on that voyage with you?

A. Yes, sir, a few of them.

Q. You knew them? A. Yes, sir.

Q. Did you see any ashore? A. Yes, sir.

Q. Did you recognize any that were on shore that were allowed to go on board the vessel?

A. Yes, sir.

Q. Who were they?

A. There was some Mexicans and some Spaniards.

(Deposition of Alfred Iverson.)

Q. They were in the steerage with you?

A. Yes, sir.

Q. They had come ashore? A. Yes, sir.

Q. And they went on board again?

A. Yes, sir.

Q. And you were refused?

A. I was refused admittance to the ship.

Q. Did you see these people up town?

A. Yes, sir.

Q. And you saw them go on board, before the vessel sailed? A. Yes, sir.

Mr. DAVIS.—Cross-examine.

Cross-examination.

Mr. McCLANAHAN.—Q. Mr. Iverson, you are a seafaring man? A. Yes, sir.

Q. How long have you followed that profession?

A. Eight years.

Q. Were you engaged in your occupation when at the port of Yokohama? A. No, sir.

Q. How came you there?

A. I was on the Steamer "Barracuda."

Q. That is one of the Pacific Mail boats?

A. Yes, sir.

Q. Wasn't that the steamer captured by the Japanese? A. Yes, sir.

Q. And the Japanese brought you to Yokohama?

(Deposition of Alfred Iverson.)

A. Yes, sir.

Q. And that was your last voyage in the "Barracuda"? A. Yes, sir.

Q. How long was that voyage?

A. We was to serve not to exceed nine months.

Q. And your port of departure was San Francisco? A. Yes, sir.

Q. Where were you bound?

A. Bound for Nikapolaski, in Siberia.

Q. You learned that before you had arrived at Nikapolaski?

A. No, sir; we knew we was going up the Siberian Coast.

Q. That is, your articles were to ship for a voyage to Siberia and return?

(Mr. Davis objected to any testimony about the articles.)

A. Yes, sir.

Q. You spoke of your captain, at Yokohama, securing for you your ticket? A. Yes, sir.

Q. You mean the captain of the "Barracuda"?

A. Yes, sir.

Q. When did you leave the port of San Francisco on the "Barracuda"?

A. We left on the 22d of August.

Q. Of this year? A. Yes, sir.

Q. When did you reach this Siberian port?

(Deposition of Alfred Iverson.)

A. We reached there on the 16th day of September.

Q. And when were you captured by the Japanese? A. On the 16th day of September.

Q. I understand you were from this Siberian port taken direct to Yokohama?

A. They took us to Ukoske, right across from Yokohama.

Q. Were you taken before a Japanese court?

A. When we was taken ashore in Yokohama we were.

Q. And what was done?

A. There was nothing done with us; we was let go.

Q. In the city of Yokohama?

(Mr. Davis objected to this as being immaterial and not proper cross-examination.)

A. Yes, sir.

Q. In your individual capacity you didn't apply for any ticket to the agent of the Pacific Mail Co., at Yokohama, did you? A. No, sir.

Q. The captain did it for you?

A. The captain told us he would get it for us.

Q. He did for the whole crew?

A. Yes, sir.

Q. And all went to the agent's office?

A. Yes, sir.

(Deposition of Alfred Iverson.)

Q. You say you left here without any money?

A. Yes, sir.

Q. Didn't you get money in Yokohama?

A. In Yokohama, we did; yes, sir.

Q. Did you spend it before you took passage on the "Mongolia"? A. Yes, sir.

Q. Who did you get that money from?

A. From the agents.

Q. The agents of what?

A. Of the Pacific Mail.

Q. That was on account of your wages due from the "Barracuda" voyage? A. Yes, sir.

Q. How much did you get that time?

A. The first time I got $30.00, gold.

Q. Thirty dollars was given to you?

A. Yes, sir.

Q. How long after you applied through your captain to the agent of the Pacific Mail Company, was it that you received from the Steamship Company's agent $30.00?

A. That was the next day, sir.

Q. How long after that was it that you sailed on the "Mongolia"?

. About—a little over two weeks.

Q. In the interim had not the "Siberia" passed through Yokohama? A. Yes, sir.

Q. Why didn't you go on her?

(Deposition of Alfred Iverson.)

A. We didn't get no privilege to go by her; we was supposed to go on her, but then the captain told us there was no room.

Q. The captain of the "Siberia"?

A. Our captain.

Q. Was that—at that time the "Siberia" passed through you had got tickets? A. No, sir.

Q. Was this $30.00 payment paid to the date of payment, or was it simply on account?

A. It was on account. The captain came around and asked us to make out a list of how much money we should require, and I told him $30.00.

(Objected to by Mr. Davis, as not being material.)

Q. And I understand that between the receipt of the $30.00 and the sailing of the "Mongolia" there elapsed about two weeks?

A. Yes, sir.

Q. And it was in that time that you were forced to spend the $30.00? A. Yes, sir.

Q. And that was the reason you landed here without money? A. Yes, sir.

Q. Now, on the arrival of the "Mongolia," will you please tell just what happened?

A. Well, the "Mongolia" arrived in Honolulu—

Q. I mean in Yokohama?

A. In Yokohama; well, the "Mongolia" arrived in Yokohama, our chief engineer, Mr. Morse, comes,

(Deposition of Alfred Iverson.)

—the captain sends word to the hotel to have our things packed and be ready to go aboard the company's launch that came to the dock to take us out to the "Mongolia." At half-past one or half-past twelve she was to leave the dock. We packed up all our baggage and clothes—

Q. You are referring to the crew of the "Barracuda" when you say we?

A. Yes, sir; we packed up our clothes and went to the dock. We took the launch and went to the ship, and when we were aboard the chief mate of the "Barracuda" gets us all to get together, so he could distribute our tickets amongst us, calling our names in rotation and giving us each a ticket, a steerage ticket.

Q. On the arrival of the "Mongolia" at Yokohama you are informed by the chief officer that you must be at the dock to take the Pacific Mail launch out to the "Mongolia," is it not? A. Yes, sir.

Q. You did so, and having got aboard the "Mongolia" your first officer lined you up and gave you steerage tickets, calling out your names?

A. Yes, sir.

Q. Then, I understand, that a little later, two or three days on your voyage, the purser took up those tickets and gave you these steerage identification checks? A. Yes, sir.

(Deposition of Alfred Iverson.)

Q. Did you sign any ticket? A. No, sir.

Q. None of the crew signed any?

A. No, sir.

Q. Of course you didn't pay anything for these tickets that were given you?

A. No, sir, I did not.

Q. Well, you don't know that anyone did?

A. No, sir.

Q. Do you know why, Mr. Iverson, the tickets were given you?

A. Well, it was on account that we were going home as passengers.

Q. Why was it that the "Mongolia" was giving you transportation irrespective of tickets, why were they sending you back to San Francisco?

(Objected to by Mr. Davis as not proper cross-examination.)

A. On account that we was passengers and our port of discharge was San Francisco, and they sent us home after we had been discharged from the Japanese; we was sent home as passengers to our port of discharge, San Francisco.

Q. Under your original contract—?

(Objected to by Mr. Davis as immaterial, and for the reason that no contract has been made.)

A. Yes, sir.

(Deposition of Alfred Iverson.)

Q. How long had you remained in Yokohama, Mr. Iverson, at the time of the receipt of this $30.00?

A. You mean after I got the $30.00?

Q. No, before; how long had you been there?

A. We were in the city of Yokohama about a week.

Q. How long had it been since your capture by the Japanese?

A. Till the time I got the money?

Q. Yes?

A. Not quite three weeks, sir.

Q. Did I understand you to say that this $30.00 was a payment paid to that date?

A. We had that money coming to us, sir.

Q. On this "Barracuda" voyage?

A. Yes, sir.

Q. Have you terminated your "Barracuda" contract?

A. I don't quite know what you mean by terminated.

Q. Ended it?

A. Ended my contract, no, sir.

Q. It is still in force? A. Yes, sir.

Q. You know Mr. Davis, do you?

A. Just from seeing Mr. Davis in Honolulu.

Q. He is your proctor in this matter?

A. Yes, sir.

(Deposition of Alfred Iverson.)

Q. Have you been advised, Mr. Iverson, prior to bringing this suit, have you been advised that the Pacific Mail Company would send you to San Francisco on the steamer "China"?

A. I have. By the agent of the Pacific Mail Company.

Q. Who told you that, Mr. Klebahn, this gentleman? A. Yes, sir.

Q. What was Mr. Klebahn's statement to you, Mr. Iverson?

A. Well, we was at a window there, talking to him, and told him that we was passengers left ashore by the steamer "Mongolia," and he said he had already looked into the matter, and he said we would go home passengers on the next steamer, that would be the "China," sailing next Monday; then I asked, who is going to keep us while we are stopping here; I told him we had no money. He then said I would have to take care of myself.

Q. You would have to take care of yourself?

A. Yes, sir, we would have to take care of ourselves. Then I said I would like to know why we can't draw some money that we have coming, and he said no, he didn't get no orders to give us any money.

Q. Is that practically all the conversation?

A. Yes, sir.

(Deposition of Alfred Iverson.)

Q. Did you have any further conversation later on with him, about that matter? A. No, sir.

Q. When was this conversation that you have related?

A. On the day the steamer "Mongolia" sailed.

Q. On Saturday, the 28th? A. Yes, sir.

Q. What time?

A. About—between 12 and 1 o'clock.

Q. Had you at that time met Mr. Davis?

A. No, sir.

Q. Were you told to come back to the office by Mr. Klebahn, on Monday?

A. No, sir; I was not.

Q. Now, Mr. Iverson, have you received from anyone, any proposition from the Pacific Mail people, that included not only your transportation to San Francisco, but your keep while you were detained here?

(Objected to by Mr. Davis as not being proper cross-examination.)

A. No, sir.

Q. Now I understand that, in the first instance, when you went to see Mr. Klebahn, that was practically your proposition? A. Yes, sir.

Q. You wanted to know about your return to San Francisco, and about your keep while being de-

(Deposition of Alfred Iverson.)

tained, and Mr. Klebahn said you should go back on the "China"? A. Yes, sir.

Q. You went to Mr. Klebahn, did you, at that time?

A. Yes, sir; I went to him, to the office.

Q. And you felt that it was right for you that the company should send you to San Francisco, and keep you while here? A. Yes, sir.

Q. Because you were under this contract in the "Barracuda"? A. Yes, sir.

Q. Did you know, Mr. Iverson, at that time, on Saturday, prior to the sailing of the "Mongolia," did you know then why you had been refused permission to go on the steamer "Mongolia"?

A. I was told afterwards.

Q. I say at the time you had the conversation with Mr. Klebahn, did you know then why it was you could not go on the steamer "Mongolia"?

A. Yes, sir.

Q. You got this information after you came ashore? A. Yes, sir.

Q. What was the reason, Mr. Iverson, as you knew it?

A. As we knew it, they said it was quarantined.

(Objected to by Mr. Davis, as hearsay.)

Q. That is, your information was you were refused admission to the ship, because the ship was quarantined?

(Deposition of Alfred Iverson.)

A. I don't know whether the ship, or the town, or it was me.

Q. You knew there was a quarantine regulation which prevented your going on the ship?

A. Yes, sir.

Q. So that you did not attribute the company's refusal to let you go on the ship to any act of the company; the company was not to blame for not letting you go on the ship?

(Objected to by Mr. Davis.)

A. I don't know who was to blame, but there was a quartermaster who stopped me at the gate.

Q. I am now referring to the time when you had information that the reason why the quartermaster stopped you—at the time you learned that quarantine regulations prevented your going on the ship; at that time you did not then attribute to the company the wrongful refusal to allow you on board?

A. No, sir.

Q. You knew it was the quarantine rule that the company was enforcing?

A. Well, I wasn't clear either way whether the company was following the quarantine doctor's orders or not; I don't know nothing about that.

Q. Well, what did you know about that quarantine?

(Deposition of Alfred Iverson.)

A. I don't know nothing at all about it, only that I was told afterwards that we was refused.

Q. Well, I am talking now about the time when you did learn something about it; what was it that you learned; was it that steerage passengers were not allowed ashore, and cabin passengers were?

A. Yes, sir.

Q. And you saw no reason why there should be a discrimination? A. No, sir.

Q. But you didn't think—you have never thought, have you, that the company was making this discrimination? A. Well, I didn't know who was.

Q. But whoever was to blame, you thought that the steerage passengers should not be discriminated as against the cabin passengers? A. Yes, sir.

Q. Did you express this sentiment of yours to anyone at any time?

A. We have talked about it, but we all seemed to think the same thing, that it was funny cabin passengers could go ashore and we couldn't.

Q. Did you talk about it among yourselves?

A. Yes, sir.

Q. Well, now, when you first met opposition to your return to the ship, didn't you then say that you didn't think it was fair, or something like that, that you should be discriminated against?

(Deposition of Alfred Iverson.)

A. I just said, it is funny that the cabin passengers should go in and out of the dock, and we can't.

Q. You told that to the quartermaster?

A. Yes, sir.

Q. At the gate? A. Yes, sir.

Q. Had you seen the cabin passengers going on the steamer? A. Yes, sir.

Q. And you thought that as they could get off you could get off, and that that was your right?

A. Yes, sir.

Q. Did you get off with the cabin passengers?

A. There was probably one or two ahead of me; I couldn't say whether cabin passengers or not; I didn't see their faces.

Q. Did you and your shipmates go off in a bunch?

A. No, sir; there was three other men besides me came down together.

Q. Who were they?

A. One was Kent, Morrissey and Murphy.

Q. They have also brought libels against the ship? A. Yes, sir.

Q. Well, now, had you known of any other of the steerage passengers that had gone off before that?

A. Yes, sir. There was a steerage passenger gone off before we did.

(Deposition of Alfred Iverson.)

Q. I understand that you docked about half-past 11? A. Between 11 and half-past 11.

Q. And did you get your lunch before you went ashore? A. Yes, sir.

Q. What time did you get your lunch, what time do they have lunch on board? A. 12 o'clock.

Q. Then I understand you went off about half-past 1 or 2 o'clock?

A. No, sir; about half-past 2 or 3 o'clock.

Q. Wasn't there a good deal of talk about this discrimination between the cabin passengers and steerage passengers, a good deal of feeling among the steerage passengers?

A. No, sir; there was nothing said to us about going ashore, when lying at the dock.

Q. I say, wasn't there a feeling that there was a discrimination allowing the cabin passengers to go ashore?

(Objected to by Mr. Davis.)

A. Well, I don't know whether it was or not, sir.

Q. You would have known that feeling, wouldn't you; was there any such among your immediate shipmates? A. Not that I know of.

Q. You say the cabin passengers came ashore?

A. Yes, sir.

Q. And yet you didn't feel that there was any discrimination?

(Deposition of Alfred Iverson.)

A. I thought I had as much right to go ashore as they did.

Q. Didn't you express that?

A. No; I said there is some of the cabin passengers going ashore and they asked if I was going ashore and I said yes, going ashore for a while and take a walk, and I got dressed, put my shoes on.

Q. Didn't your shipmates express feeling that it was not right to discriminate against the steerage?

A. No, sir.

Q. Did not? A. No, sir.

Q. How long had you been on your voyage?

A. From Yokohama to here, about 9 days. A little over 9 days.

Q. You say that there was no objection made to your leaving the ship by anyone? A. No, sir.

Q. Where were you, between the hour of finishing your noon-day meal and half-past 2 and 3 o'clock?

A. I was aboard the steamer, down to our berths, and part of the time I was up on deck.

Q. What part of the time were you down below?

A. Right after dinner time.

Q. How long did you stay there?

A. Oh, probably till about a little after 1 o'clock.

Q. And then you came on deck, and remained there until half past 2 or 3?

(Deposition of Alfred Iverson.)

A. No, sir; I stopped there a short while, then I went below and put on my shoes, and coat and hat, and went ashore.

Q. Then you remained on deck from 1 o'clock until nearly the time of going ashore?

A. Yes, sir.

Q. You remember the quarantine doctor coming on the ship? A. In the stream, I do.

Q. That is, before your lunch?

A. Before we had dinner, and before we got to the dock.

Q. What do you mean by the stream?

A. Well, that is lying outside the channel here.

Q. Before you got into the channel at all? Did you see any of the ship's crew after the examination of the steerage passengers? A. Yes, sir.

Q. The "Mongolia" crew? A. Yes, sir.

Q. Who of the crew did you see?

A. They were all together.

Q. Before she docked? A. I saw all.

Q. Did you see the steerage steward?

A. I seen the steerage steward before she docked.

Q. And after the doctor had inspected the steerage passengers? A. Yes, sir.

Q. What is his name? A. I don't know.

Q. You know his face? A. Yes, sir.

(Deposition of Alfred Iverson.)

Q. How many times did you see him? After he passed the doctor and at the time of your docking?

A. Probably about twice, that was around dinner time.

Q. Well, you eat your lunch at the dock, didn't you? A. Yes, sir.

Q. Well, I am talking about before that, between the hour of inspection by the medical gentleman and the hour of docking, at half-past eleven, did you see him a couple of times during that interval?

A. Yes, sir; I see him on deck.

Q. You went on deck? A. Yes, sir.

Q. With your gang, in a bunch?

A. No, scattered along the deck.

Q. Mr. Iverson, why didn't you leave the vessel sooner than you did?

A. Well, I was in no hurry about going ashore; I thought I had lots of time to go ashore.

Q. You had the opportunity of leaving as soon as she was docked? A. Yes, sir.

Q. But you preferred to wait until half-past 2 or 3? A. Yes, sir.

Q. Wasn't that because of a rumor afloat?

A. No, sir.

Q. You don't know of the kind of a rumor I refer to, do you? A. No, sir.

(Deposition of Alfred Iverson.)

Q. Well, a rumor afloat that the cabin passengers were allowed ashore and the steerage would not be?

A. No, sir.

Q. Now, have you any reason, aside from your statement, why you remained on the ship until half-past two or three, before going ashore?

A. No, sir.

Q. I understand you went ashore with the bunch?

A. No, sir; there was four of us went ashore.

Q. Well, how many do you consider a bunch; more than four?

A. Well, no; I guess four is a bunch.

Q. Now, there were other people besides your bunch, going ashore at the time?

A. Yes, sir. Ahead of us.

Q. Were they steerage? A. I don't know.

Q. You had seen, prior to your going ashore, other people going ashore? A. Yes, sir.

Q. What were you doing while you were watching the other people going ashore?

A. I was standing by the port, and was looking on the dock, and I happened to look along the gangway and I seen passengers going ashore.

Q. How many, from the time the vessel docked up to the time of your going ashore? You saw people going ashore in that manner? A. Yes, sir.

Q. And all you did was to watch them?

(Deposition of Alfred Iverson.)

A. Yes, sir.

Q. Who was the first steerage passenger ashore?

A. One of the coal passers of the "Barracuda."

Q. What was his name?

A. I don't know his name.

Q. Is he here in town now? A. No, sir.

Q. When did this coal passer go ashore?

A. He went ashore about 1 o'clock, probably a little after 1 o'clock; I should say 1 or near there.

Q. How do you know he was a coal-passer?

A. I knew he was a coal-passer on the "Barracuda."

Q. He was dressed as a coal-passer?

A. No, sir.

Q. So up to 1 o'clock you had seen no steerage passengers go ashore? A. I said at 2 o'clock.

Q. So up to 2 o'clock you had seen no steerage passengers go ashore? A. No, sir.

Q. Had you seen cabin passengers go ashore before that? A. Yes, sir.

Q. As a matter of fact, as soon as the vessel docked cabin passengers began to go ashore?

A. Yes, sir; as soon as the gangway was put up.

Q. Do you know of any reason why the steerage passengers didn't begin to go ashore till 2 o'clock?

A. No, sir.

(Deposition of Alfred Iverson.)

Q. You still didn't hear any rumor, and you have no reason to offer why they didn't go ashore till 2?

A. No, sir.

Q. They had the opportunity, just as the cabin passengers? A. Yes, sir.

Q. While you were leaving the ship to go ashore, did you at that time, receive any notice of this quarantine regulation? A. No, sir.

Q. Did you receive any notice that you should not go ashore? A. No, sir.

Q. Didn't you hear the steerage steward sing out that steerage passengers couldn't come back if they went ashore? A. No, sir.

Q. Did you, when you left the ship, know when she was going to sail? A. Yes, sir.

Q. Why did you go back in an hour and a half?

A. I was told by the purser of the "Mongolia"—he asked us if we were some of the crew off the "Barracuda" that was going home passengers on the "Mongolia." I told him we was, and then he said we ought not to be going ashore when this quarantine was on, and he told us if we didn't get down there by 5 o'clock we would be put in quarantine for ten days; pay would be stopped, and we would have to pay our passage and all expenses.

Q. Then you went back, did you?

(Deposition of Alfred Iverson.)

A. No, sir; not right away; we stayed there a few minutes and talked.

Q. Well, this information made you go to the dock? A. Yes, sir.

Q. And there you had further information, as to quarantine, by the watchman and the quartermaster who refused you admittance to the dock?

A. Yes, sir.

Q. Did you at that time see that he was refusing admittance to the dock to other people?

A. I did—to other steerage.

Q. When you were refused admittance to the dock, where did you go then?

A. I came right up town again, to Hotel and Fort streets.

Q. I understand you to mean you and your shipmates, these other five libelants? A. Yes, sir.

Q. Where did you go to on Fort street?

A. Just to the corner; we were just standing there talking; we were taking a walk around town.

Q. Did you, at the time of your first refusal, discuss with the watchman and the quartermaster the injustice of allowing rights to the cabin passengers and denying these same rights to the steerage?

A. I just asked him—I said it was funny that cabin passengers were allowed on the dock and we

(Deposition of Alfred Iverson.)

wasn't; he said he couldn't help it; he had to follow his orders.

Q. Where did you go after that?

A. We took a walk around town, and a little before 9 that evening we went to the dock again.

Q. What did you go down there for?

A. To see if we couldn't get on again. We was refused again.

Q. Had you been to the agents of the steamship company? A. No, sir.

Q. Did you know who the agents were—H. Hackfeld & Company? A. Yes, sir.

Q. And you did not go to see the agent?

A. No, sir.

Q. Were you satisfied with the word of the quartermaster and the watchman? A. Yes, sir.

Q. Who did you see at 9 o'clock?

A. The quartermaster and the watchman.

Q. Again? A. Yes, sir.

Q. And you got the same refusal from them?

A. The same, except he told us to be back before 9 o'clock the following morning, the quarantine doctor would be there to fumigate.

Q. Who was there at this second visit, beside you and your shipmates?

A. I don't know; there was other people, but I don't know who they was.

(Deposition of Alfred Iverson.)

Q. Steerage passengers? A. Yes, sir.

Q. Do you know, as a matter of fact, of one steerage passenger who went inside? A. Yes, sir.

Q. What is his name?

A. Mr. Mullen; he was inside the dock, and one of the Mexicans was in the dock.

Q. This man, Mullen, had been outside the dock, hadn't he? A. Yes, sir.

Q. And you saw him in there? A. Yes, sir.

Q. Didn't you ask how he got in?

A. No, sir.

Q. Well, Mr. Iverson, here you were, a steerage passenger, asking for admittance to the dock, as I understand, and you saw Mullen, a man who had been outside, inside, didn't you call the attention of the watchman to that? A. No, sir.

Q. Why not?

A. I don't know why; I never called his attention to it.

Q. Were not you interested in how Mullen got inside? A. No, sir.

Q. Why not; you wanted to get inside?

A. Yes, sir; but I thought it wouldn't do me any good to ask.

Q. Well, perhaps if you inquired you would have found how Mullen got inside. Now, as a matter of fact, were you not told at that time that if you got

(Deposition of Alfred Iverson.)

inside the dock, and stayed there all night, and would be taken to Quarantine Island next morning and be fumigated, you could then go on the "Mongolia"?

A. No, sir.

Q. Mullen went to the best of your knowledge?

A. To my knowledge, I didn't see him go on board.

Q. To the best of your information, he has gone on board? A. No, sir.

Q. Mullen? A. No, sir.

Q. Where is he? A. He is in town.

Q. The man that was inside the dock?

A. Inside the dock, yes, sir.

Q. Did you ever see him to talk to him?

A. I have seen him after the ship sailed, and before she sailed, that day.

Q. Did you see him after this time, 9 o'clock, that evening? A. Yes, sir.

Q. You have seen him since?

A. I have talked to him, yes.

Q. How did he explain his going outside again?

A. Well, him and another steerage passenger, that Mullen told me about, this steerage passenger said to him he didn't like to sleep on the dock, and he had money to pay for a room, and asked Mullen to go with him, and the two walked out together.

Q. Then did you ask Mullen—what do you mean by sleeping on the dock—do you know what he meant?

(Deposition of Alfred Iverson.)

A. Any place we could find, I guess.

Q. I understand that this other man—

(Objected to by Mr. Davis as immaterial and not proper cross-examination.)

Q. I understand that this other man told Mullen that if there was any question about sleeping on the dock he had money, and then they both left the dock?

A. Yes, sir.

Q. And you have nothing to say as to the reason for the necessity or occasion for sleeping on the dock? A. No, sir.

Q. What was the other man's name?

A. I don't know what his name was.

Q. Was he a steerage passenger?

A. Yes, sir.

Q. How did he get inside?

A. I don't know.

Q. Had he been outside? A. Yes, sir.

Q. Is he here?

A. I believe he is.

Q. You don't know his name?

A. No, sir.

Q. What kind of looking man is he?

A. Tall, slender, sickly-looking man.

Q. Was anyone with him?

A. He is alone, I believe.

(Deposition of Alfred Iverson.)

Q. And Mullen, is he alone?

A. At present Mullen is stopping where we are.

Q. Is he one of the libelants? A. Yes, sir.

Q. Now, I understand that 9 o'clock the next morning you got down there again?

A. Before 9 o'clock.

Q. And you went to the same people, the watchman and the quartermaster? A. Yes, sir.

Q. What is the quartermaster's name?

A. I don't know his name.

Q. How do you know he was the quartermaster?

A. I could see by his cap, his uniform.

Q. All the time he had these on?

A. Yes, sir.

Q. What did you do when you went there in the morning?

A. Went up to the gate and asked him if we could go down; he said we better wait till the doctor came; I said it is 9 o'clock now. He said he couldn't let us in till the doctor came. We waited around and didn't see no doctor, and tried to get in again about 10 o'clock, and he said he got orders to let none of us aboard the ship or down on the dock.

Q. Who said that? A. The quartermaster.

Q. I understand you got there before 9, and waited for the doctor there, and at 10 o'clock the quartermaster informed you he was under orders to

(Deposition of Alfred Iverson.)

let nobody on board the ship; in the meantime, did the doctor come? A. I don't know.

Q. You were there, but didn't see the doctor?

A. No, sir.

Q. What did you do next to get on board?

A. Just went to the gate and asked to be allowed to go down; he said he didn't have orders to allow us on the dock.

Q. What did you do next?

A. Just waited around there.

Q. Then what?

A. Stayed there till the ship sailed.

Q. What time did she sail?

A. Between 11 and half-past 11.

Q. Did you go to the doctor's office?

A. No, sir.

Q. Never went at all? A. No, sir.

Q. And up to the time of the sailing of the ship you never went to the agent's office?

A. No, sir.

Q. Did you have any communication with anybody on the ship while waiting there?

A. Yes, sir.

Q. Who was it? A. One of our crew.

Q. Had he come off the ship?

A. No, sir; this fellow wasn't ashore.

Q. What was his name? A. Jensen.

(Deposition of Alfred Iverson.)

Q. Where does he live? A. I don't know.

Q. Was he one of the "Barracuda" crew?

A. Yes, sir.

Q. And you have no reason to offer why he didn't leave the ship? A. No, sir.

Q. Do you know of any other steerage passengers who didn't leave the ship? A. Yes, sir.

Q. As a matter of fact, how many did leave the ship? A. I don't know; I never counted.

Q. You know of no reason why he had not left the ship—did not leave the ship? A. No, sir.

Q. What conversation did you have with Mr. Jensen?

A. He called me and told me they were packing up our baggage to put it on the dock, and asked me where my baggage was, and I told him and told him to put all my things in the basket.

Q. When was this?

A. Before the ship sailed.

Q. What time?

A. Probably about, not quite an hour before she sailed.

Q. Did you tell Mr. Jensen why it was your things were being put on the dock?

A. He told me.

Q. What was it?

(Deposition of Alfred Iverson.)

A. Just that they were packing our baggage to put it on the dock; that we wasn't allowed to go back on the ship.

Q. Why?

A. We was quarantined; that's the way, I think.

Q. He told you you were not allowed back, so he heard, and that they were packing your baggage to put it on the dock? A. Yes.

Q. Didn't he also suggest to you that you had done wrong in leaving the ship? A. No, sir.

Q. Did he explain to you, or give any reason why he did not leave? A. No, sir.

Q. Did you ask him? A. No, sir.

Q. Didn't you think it strange that he didn't leave the ship? A. No, sir.

Q. It is customary for passengers to remain on ship when she reaches port?

A. I suppose so, if they wish to.

Q. As a matter of fact, don't they go off if they can? A. Yes, sir.

Q. Now, after the ship had sailed, what did you then do?

A. Then some Custom-House Inspector allowed us to go down to the dock and get our baggage.

Q. When did you first see the agents of the ship?

A. After I got my baggage and after the ship had left.

(Deposition of Alfred Iverson.)

Q. Then you went to H. Hackfeld & Co.'s office, you and your whole crowd?

A. Well, yes, the most of us.

Q. That is the libelants? A. Yes, sir.

Q. Well, what was the conversation you had there with Mr. Klebahn?

A. Well, Mr. Klebahn wasn't in when we first got in; we had to wait pretty near an hour.

Q. Had you seen him prior to that time?

A. No, sir.

Q. Did you know who he is? A No, sir.

Q. When he came in, what did you say?

A. It was Mr. Mullen talked to him; he said, "I just came up to find out how it was that we was passengers off the 'Mongolia' that was left here, and I would like to know what you are going to do"; and Mr. Klebahn said he had already looked into this matter; that he was running around all day looking for the doctor, and that we were to go home on the next steamer, the "China." And I asked who was going to keep us while staying in town, and told him, he told me we would have to keep ourselves. I said I would like to know if we couldn't draw some money of the wages we had coming, and he said he hadn't got no orders to give money, and that is all.

Q. What did you do then?

(Deposition of Alfred Iverson.)

A. Went away; took my bag and baggage and walked around for a while; left my baggage in the Palace restaurant and went up and seen a lawyer, Mr. Chillingworth, and explained the case and things to him.

Q. That was the Saturday of the sailing of the ship? A. Yes, sir.

Q. When did you first meet Mr. Davis?

A. I believe I met Mr. Davis that afternoon.

Q. And your case was turned over to him?

A. The man I went to see about it was Mr. Chillingworth; I explained my case to him.

Q. And he turned the case over to Mr. Davis?

A. I don't know whether that was done or not.

Q. Is Mr. Davis your proctor?

A. Yes, sir.

Q. How did he become your proctor?

A. Well, I don't know how that was.

Q. It just happened like the —— that just growed; now, after meeting Mr. Davis on that Saturday afternoon, are you quite sure that at any time after that Mr. Davis did not tell you that the steamship Company would pay your fare or give you transportation on the "China," and your keep while you were here?

A. I was told that after.

Q. By whom? A. By Mr. Davis.

(Deposition of Alfred Iverson.)

Q. When was that?

A. That was a few days after the "Mongolia" sailed.

Q. Before you brought suit?

A. No, sir.

Q. Didn't he tell you before you brought suit?

A. No, but I explained my case to the lawyer, to sue the company.

Q. You knew when you brought suit, didn't you swear to the complaint on the 13th of October—that would be on Monday? A. Yes, sir.

Q. Now, before swearing to the complaint did you not have that information that the company would send you back on the "China"?

A. Before swearing to the complaint?

Q. Yes, that the company would send you back, and in the interim would pay your keep while here?

A. No, I don't quite believe I had.

Q. You don't think you did?

A. I am not quite positive about that.

Q. Now, tell us when and where it was you did have that information given you.

A. At Mr. Chillingworth's office.

Q. When, in the forenoon or afternoon?

A. In the afternoon.

Q. You cannot remember the day?

A. No, sir.

(Deposition of Alfred Iverson.)

Q. What did you say to that proposition?

A. I said it is funny that when I first asked the agent that he told us we would have to look out for ourselves, and now that he found out we was going to sue he would keep us now; I tried to find out why he wouldn't do it when first asked, and save us a lot of trouble.

Q. You say it was the afternoon you were going to sue; at that time you hadn't sued?

A. I am not sure whether I had sworn to the complaint at that time.

Q. That was all you wanted, wasn't it?

A. Yes, sir.

Q. You feel that that would have compensated you for the inconvenience and trouble?

A. Yes, sir.

Q. Well, don't you feel that way now?

A. Well, I would like to have all expenses and everything I have gone through paid, but I don't know about the rest of them.

Q. Well, you feel that if you were given your keep and transportation on the "China" that would be compensation for this loss of time and trouble that you have been put to?

A. No, sir, not now.

Q. What has occurred that has changed your mind?

(Deposition of Alfred Iverson.)

A. Well, I went through a little trouble.

Q. Now, what trouble was it?

A. Well, chasing around trying to get this thing to a settlement.

Q. Who have you tried to settle with?

A. If the company had been agreeable to settle with me I would have settled it then.

Q. I am speaking of now, since you brought the suit?

A. I have seen my lawyer, to see if he couldn't get a suitable settlement from the agents.

Q. What has occurred in the way of detriment or damage to you since the bringing of the suit?

A. I don't quite understand.

Q. Well, you say that at the time the suit was brought that was all claimed; if you could have got your transportation and keep, you would have been satisfied?

A. Yes, sir, and my wages gone on till I got to San Francisco.

Q. Well, you say you don't feel that way now, because of a lot of trouble; what was this trouble?

A. Well, going around and looking this thing up, trying to get these people to come to a settlement that would suit me, and to get some shoes and things on me before I went home.

(Deposition of Alfred Iverson.)

Q. As a matter of fact, Mr. Iverson, if this offer should be or had been carried out, as made to you by your attorney, to send you back on the "China" and pay your keep while here, as a matter of fact you would suffer no other damage, would you—you are under pay, are you not, under contract?

A. Well, from the way the purser told me, he said that our wages were stopped.

Q. Well, you claim now that they do not stop?

A. I don't know for sure.

Q. Well, suppose you look at it that way—

(Objected to by Mr. Davis.)

Q. —that your pay is continuing now, your "Barracuda" contract, now you haven't suffered any damage, if put back in San Francisco and your keep is paid, now, to be perfectly frank and square, is it not so?

A. In one way it is and in one way it ain't.

Q. Well, I am trying to find out, how is it you suffered?

A. Well, I am wearing out shoe leather, in one way.

Q. Well, if you had been on the "Barracuda" wouldn't you have worn out shoe leather?

A. Not as much as in Honolulu.

Q. Trying to effect a settlement?

A. Going from place to place, yes, sir.

(Deposition of Alfred Iverson.)

Q. Aside from the shoe leather, is that all you suffer, if you get transportation back to San Francisco and your keep while here?

A. My clothes is gone on the ship; I don't know whether I will get them back.

Q. And if you did get them back that is all you suffered?

A. Well, that is all I suffered, but I think it would be pretty hard to get them back now.

Q. Well, this shoe leather proposition—hasn't that been offset by a visit to this beautiful city of Honolulu?

A. Well, I have seen this town before.

Q. Well, you are glad to get back again, are you not? A. Yes, sir, glad to look around.

Q. I understand, Mr. Iverson, that you have been stopping at the Sailors' Home? A. Yes, sir.

Q. How did you learn where it was?

A. Well, from some people ashore here, some sailor-men.

Q. Who were they?

A. There was one man I know whose name was Shenan; he was stopping here in Honolulu.

Q. Where is Shenan stopping?

A. I don't know where he is stopping.

Q. Don't he stop at the Sailors' Home?

A. No, sir.

(Deposition of Alfred Iverson.)

Q. Is he a resident here?

A. He is on some case for the steamer.

Q. Did anyone else tell you about the Sailors' Home? A. No, sir.

Q. Were you not directed on Saturday to go to the Sailors' Home and come back to the office of the company on Monday? A. No, sir.

Q. What did Mr. Sheenan say to you?

A. He asked me where I was going to stop and I told him I didn't know.

Q. You had never met him before?

A. Yes, sir.

Q. Knew him?

A. By sight and just slightly acquainted.

Q. Did you tell him your trouble?

A. Yes, sir.

Q. Where did you meet him?

A. I met him up here; I don't know what street; the second street down from Hotel Street.

Q. Near the steamship company's office?

A. Probably a block or so further up.

Q. Did he go to the office with you?

A. Yes, sir.

Q. Where did you leave your baggage when you went in the steamship company's office?

A. Outside the company's office.

Q. Sheenan—he stayed outside?

(Deposition of Alfred Iverson.)

A. Yes, sir.

Q. What kind of a man is he, what is his appearance? A. He is a slim built man.

Q. Tall and slim? A. Not very tall.

Q. Six feet?

A. No, sir; not quite as tall as I am.

Q. What kind of a beard did he have?

A. No beard at all. Smooth shaven.

Q. Now, after you left the office at that time, did you again see Sheenan?

A. After I left the office Sheenan was still there, stayed there till we came back.

Q. And then you left Sheenan?

A. Yes, sir.

Q. Now, did you see him again after that?

A. Yes, I have seen him after that.

Q. At that time, did you have any talk with him?

A. No, sir. Oh, talked to him, and asked where to get a place to sleep.

Q. Had you seen Mr. Chillingworth at the time? That you saw Mr. Sheenan the second time?

A. That was—the arrangements we were making then.

Q. He told you to go to Mr. Chillingworth?

A. No, sir; he did not.

Q. I want to know the conversation that took

(Deposition of Alfred Iverson.)

place between you and Sheenan the second time, about your place to sleep?

A. He asked where we was going to stay; I said to Sheenan we would go to Russian Frank's, if that is the name, and we went and he showed us a place to sleep and it was not suitable, pretty dirty, and wasn't suitable, and we had a talk and he says why don't you go to the Sailors' Home, and I said no money, and he said well see the captain and superintendent and make arrangements, and you can always fix it that way, fix it up with the superintendent. And we told the superintendent about our case, and having no money, and asked him if we could stop two nights and we would see our lawyer and make it all right with him, and pay him for what we owed. He said all right, and we told our lawyer and he gave us an order.

Q. Who did?

A. Mr. Chillingworth.

Q. To the sailors' boarding-house? Well, at the time of the talk with the superintendent of the home you had not seen Mr. Chillingworth?

A. I had seen him before.

Q. But he had not then given you the order?

A. No, sir.

Q. In this conversation with the superintendent

(Deposition of Alfred Iverson.)

of the sailors' boarding-house was Hackfeld & Co. mentioned, or the agents of the Pacific Mail?

A. Yes, sir, it was in one way, about my money, about me having wages coming, and I couldn't get them, so didn't have any money to pay for a room, but I thought the lawyer would make it all right with him.

Q. That is, that you said to the superintendent of the Sailors' Home that there was money coming to you on the "Barracuda" contract?

A. Yes, sir.

Q. That was said by way of inducing the superintendent to allow you to stay there?

A. That is what we told him; he would be paid if we were allowed to stay there for two nights.

Q. You introduced that to show him you were financially responsible? A. Yes, sir.

Q. Did the superintendent of the Sailors' Home see Mullen? A. No, sir, not to my knowledge.

Q. Who did he speak to? A. I don't know.

Q. But you heard of his having spoken to one of your associates? A. No, sir, I did not.

Q. Did Mr. Sheenan mention Hackfeld & Co. and the Pacific Mail Co., prior to taking you to the Sailors' Home? A. No, sir.

Q. You have been obligating yourself to pay $1.00 a day?

A. One dollar a day for board and lodging.

(Deposition of Alfred Iverson.)

Redirect Examination.

Mr. DAVIS.—Q. Is it a fact that you arrived here on the 27th day of October? A. Yes, sir.

(Objected to by Mr. McClanahan.)

Q. When you speak of inconvenience is it not a fact that you were put ashore here without any money? A. Yes, sir.

Q. And the company nor its agents have not supplied you with one cent since that time?

(Objected to by Mr. McClanahan.)

A. No, sir.

Q. Did they ever make any offer—Mr. McClanahan has asked you about the company making an offer to convey you by the "China" and pay your keep at the Sailors' Home, before the bringing of the suit? A. Well, I am not positive.

Q. At all events they have not supplied you with any money? A. No, sir.

(Objected to by Mr. McClanahan.)

Q. Who has been paying your board?

A. Mr. Chillingworth.

Q. Now, isn't it a fact that you have been compelled to borrow money from Mr. Chillingworth, to supply the necessities of life?

(Objected to by Mr. McClanahan.)

A. Yes, sir.

(Deposition of Alfred Iverson.)

Q. You have been compelled to remain here without money? A. Yes, sir.

Q. And besides you were refused admittance by the Quartermaster of the "Mongolia" to go on the wharf or on board the ship?

(Objected to by Mr. McClanahan.)

A. Yes, sir.

Q. You say that the whole of your clothes have not been taken off the vessel and you haven't got possession of them now? A. No, sir.

Q. You tried to get work here, and have had none? A. Yes, sir.

Q. At the time you presented yourself to the quartermaster to go on the wharf and on board the vessel, what was the state of your health?

A. I would say I didn't have nothing to eat.

Q. Were you well?

A. Yes, good and healthy.

Q. You had no sickness of any kind?

A. No, sir.

Q. Then but for Mr. Chillingworth you would never have been able to have gotten the necessaries of life? A. No, sir.

Q. And you claim damages because they refused to take you on the vessel to San Francisco, and left you ashore in the state you have described?

A. Yes, sir.

(Deposition of Patrick Murphy.)

Patrick Murphy, a witness for the libelant, sworn and examined in the city of Honolulu, before Walter B. Maling, a United States Commissioner for the District and Territory of Hawaii, on the 10th day of November, A. D. 1905, gave testimony as follows:

Deposition of PATRICK MURPHY, taken under an order of Court of November 4th, 1905, upon the application of libelant.

Direct Examination.

Mr. DAVIS.—Q. What is your name?

A. Patrick Murphy.

Q. Of what country are you a citizen?

A. American.

Q. Of the United States? A. Yes.

Q. Where is your home? A. Frisco.

Q. San Francisco, in the State of California?

A. Yes, sir.

Q. You know the Steamship "Mongolia"?

A. Yes, sir.

Q. Did you join her at Yokohama?

A. Yes, sir.

Q. In Japan? A. Yes, sir.

Q. Where did you join the Steamship "Mongolia"? A. At Yokohama.

Q. When? A. 18th of October.

Q. What did you join her as, passenger or what?

(Deposition of Patrick Murphy.)

A. Passenger.

Q. Did you have a ticket? A. Yes, sir.

Q. Who gave it to you?

A. The chief mate, on board the "Mongolia."

Q. The chief mate of what?

A. Of the "Barracuda."

Q. He gave you a passenger ticket?

A. Yes, sir.

Q. When did the Steamship "Mongolia" leave Yokohama?

A. On the 18th of October, at 3 o'clock.

Q. Did you exchange that ticket for a check, aboard the vessel?

A. Yes, sir, when about two or three days out from Yokohama.

Q. Who did you give the ticket to?

A. To the purser.

Q. Is that the check (showing) that was delivered to you on board the "Mongolia"?

A. Yes, sir, that is the same check.

Q. Delivered to you by whom?

A. By the purser.

Q. In exchange for what?

A. For the ticket I got.

(Mr. Davis here offered the above-mentioned check in evidence, and asked that it be marked Libelant's Exhibit No. 1, and the same was allowed by the Com-

(Deposition of Patrick Murphy.)

missioner. The said check is in the words and figures following, to wit:)

"(2-1-05-3 M.) S. G. 63

PACIFIC MAIL STEAMSHIP CO.

Steerage Check.

Steamer: 'Mongolia.'

Name: P. Murphy.

From Yokohama to San Francisco.

No. Ticket: 9116.

A. E. RENNIE,

Purser."

Mr. DAVIS.—Q. Now, you continued on the "Mongolia" as passenger until you arrived in Honolulu? A. Yes, sir.

Q. When did you arrive in Honolulu?

A. On the 27th of October.

Q. Of this year? A. 1905.

Q. After the vessel arrived here in Honolulu did you go off the vessel, off the "Mongolia"?

A. Not as soon as she arrived, I didn't.

Q. How long after she arrived?

A. Well, about twenty minutes, I guess.

Q. Twenty minutes after she was moored?

A. Yes.

Q. Under what circumstances did you leave the vessel, for what purpose?

A. Just to have a walk around the town.

(Deposition of Patrick Murphy.)

Q. When you started to leave the "Mongolia" did anybody make any objection to your going off?

A. No, sir; no one spoke to me.

Q. How did you go off?

A. Right down the gangway and through the gate.

Q. With whom did you go down the gangway, in company with other passengers?

A. No, sir; yes, there was three others in front of me.

Q. Where did you go when you got off the vessel?

A. Went outside the gate, and seen Roe and Miller outside the gate.

Q. Then what did you do?

A. Had a walk about the town.

Q. What time did you go back to the dock?

A. Ten minutes past five, after meeting the purser.

Q. Where was she lying?

A. Down at the Pacific Mail Dock.

Q. You went back there at what hour?

A. Ten minutes past five.

Q. And what took place then, did you go on board?

A. No, sir, they wouldn't let us go aboard.

Q. Who wouldn't?

A. Quartermaster at the gate, and watchman.

Q. What quartermaster?

(Deposition of Patrick Murphy.)

A. The quartermaster of the "Mongolia."

Q. What was it he said?

A. He said he was told not to let us aboard.

Q. And he refused to let you pass in on the dock?

A. Yes, sir.

Q. Now how long after that did you try to go aboard again? A. Nine o'clock that night.

Q. Who was there then?

A. The quartermaster and the watchman was there too.

Q. The quartermaster of what?

A. Of the "Mongolia."

Q. What did he say at that time?

A. He told us to come back at 9 o'clock the next morning, and the quarantine doctor would be there and let us aboard.

Q. Did you go back next morning?

A. Yes, at 8 o'clock, and stopped till she sailed.

Q. What did they say at that time?

A. They said nothing, gave us no satisfaction at all, and they said the quarantine doctor was not there.

Q. They wouldn't let you on the dock?

A. No, sir.

Q. Who was that?

A. The quartermaster off the "Mongolia."

(Deposition of Patrick Murphy.)

Q. What was the condition of your health that morning you tried to go on board?

A. I was in good health.

Q. You had no sickness of any kind?

A. No, sir.

Q. When did the vessel leave?

A. Saturday the 28th.

Q. 28th of October? A. Yes, sir.

Q. Did you see the vessel sail away?

A. Yes, sir, I was on the dock when she left.

Q. And you was there wanting to go on a voyage to San Francisco? A. Yes, sir.

Q. That check was from Yokohama to San Francisco? A. Yes, sir.

Q. Had you any money when you came ashore?

A. No, sir, I hadn't a cent.

Q. What have you been doing since the ship left?

A. Been doing nothing, walking around.

Q. Where are you boarding?

A. In the Palace restaurant.

Q. Where do you sleep?

A. In the Sailors' Home.

Q. And how much is the expense?

A. One dollar a day.

Q. How are you getting that money?

A. Mr. Chillingworth sent us down.

Q. He is paying for your board and lodging?

(Deposition of Patrick Murphy.)

A. Yes, sir.

Q. Have you obligated yourself to repay him?

A. I can't pay him now.

Q. No, but when you get it?

A. Yes, sir.

Q. Is it your intention to leave for San Francisco by the first steamer after the evidence is taken, that you can get away on? A. Yes, sir.

Q. Well, now, Murphy, you have been compelled to stay here since the 28th of October?

A. Yes, sir.

Q. Your destination was San Francisco?

A. Yes, sir.

Q. Have you a wife and family there?

A. No, sir.

Q. A mother, any relatives?

A. No mother, no, sir.

Q. What was it your intention to do when you got to San Francisco?

A. I was going to look for work.

Q. You would have applied for work as soon as you got there? A. Yes, sir.

Q. You know of any reason why you were refused admission to your boat—was anything said to you before you left? A. No, sir.

Q. And you merely came ashore to take a little walk around town? A. Yes, sir.

(Deposition of Patrick Murphy.)

Q. You claim $1,000.00 damages in this libel against the Pacific Mail, do you consider that would compensate you for any injury caused you by breach of this contract? A. Yes, sir.

Q. What about your clothes, Murphy?

A. Well, I lost part of my clothes.

Q. Where was your clothes?

A. They was on board when we left the ship.

Q. What became of them?

A. They was thrown on the dock, I believe, before she pulled out.

Q. When did you get them?

A. Just as soon as the ship pulled out.

Q. When you went on the dock you found your clothes there?

A. Yes, a portion of them.

Q. Where was they before that?

A. Right inside of my bunk in the vessel.

Q. Now what clothes were missing?

A. I lost a razor, a suit of blue underwear and a vest.

Q. Those things were among your effects when you was on the vessel? A. Yes. sir.

Q. And not among the clothes that was put on the wharf? A. No, sir.

Q. Have you looked for work since you have been here? A. No, sir.

(Deposition of Patrick Murphy.)

Q. You feel that $1,000.00 would compensate you for any damages you have sustained?

A. Yes, sir.

Q. And you claim damages for the breach of that contract? A. Yes, sir.

Q. Each time you presented yourself at the dock to get on board the vessel, were you sober, and in a condition to be received? A. Yes, sir.

Q. And you were refused by the quartermaster of the vessel? A. Yes, sir.

Q. That is the reason you didn't complete that voyage to San Francisco? A. Yes, sir.

Q. And have been compelled to remain here since? A. Yes, sir.

Cross-examination.

Mr. McCLANAHAN.—Q. How much less than $1,000.00 would compensate you?

A. No less.

Q. How many of the crew of the "Barracuda" were on the "Mongolia"?

A. There was 38, skipper and all, counting the whole lot.

Q. Where were the balance of the crew, other than the seven that came ashore?

A. Some of them went to Frisco, and some in Yokohama.

Q. I asked you how many of the crew of the "Barracuda" were on the "Mongolia"?

(Deposition of Patrick Murphy.)

A. Well, I couldn't say for sure; about 24 or more, I think.

Q. Where are the balance of the 24?

A. I can't tell you how many was left behind; must be 34 of them altogether.

Q. Where are the balance of them?

A. Aboard, I think, when she left the dock.

Q. The balance of them didn't come off the boat?

A. Yes, I seen lots of them off the boat.

Q. How many?

A. Well, I see one Mexican up town, there was seven of us.

Q. Who else? A. I seen one Mexican.

Q. Well, you saw him once before, who else?

A. Well, I seen the sea captain and a chief engineer, that were steerage passengers on the "Mongolia," I seen them up town, too.

Q. A sea captain?

A. Yes, he was a steerage passenger.

Q. Captain of what?

A. Some English ship.

Q. What was his name?

A. I don't know his name.

Q. And the other fellow was an engineer?

A. Yes, he said he was chief engineer.

Q. What was his name?

A. I don't know.

(Deposition of Patrick Murphy.)

Q. Chief engineer of what?

A. Of some ship from Hongkong.

Q. How did you know he was chief engineer?

A. I heard him say so.

Q. He didn't say what vessel—what kind of looking man was he?

A. He had a whisker, sir, short, dark-complected fellow, about 5 feet 7 inches.

Q. Young or old?

A. About 40, I think.

Q. Are these men in town now?

A. No, they went on the "China," I believe.

Q. You would swear to that?

A. I couldn't swear to it.

Q. Why did you say you were sure?

A. I didn't say I was sure.

Q. How do you know they have gone?

A. I heard they went.

Q. Who from?

A. A well-borer, working out here on some plantation.

A. A white man?

A. Yes, a white man, left off the ship, too.

Q. When did you see this white man?

A. I seen him day before yesterday.

Q. What plantation is he working on?

A. I couldn't say.

(Deposition of Patrick Murphy.)

Q. What did he say?

A. He said he heard the sea captain and chief engineer had gone away on the "China."

Q. Who did you hear it from?

A. I don't know, that was what he was telling us.

Q. You heard it from him, and he heard it from someone else?

A. That is what he told us, they went on the "China."

Q. Why didn't the others of the crew of the "Barracuda" come off the boat?

A. I couldn't tell you that; I suppose they could have come off if they liked.

Q. How long was it after she docked you came off?

A. Between half-past 2 and 3.

Q. When did she dock?

A. Shortly after 2 o'clock.

Q. How did it happen, why was it that you got a ticket from your chief mate?

A. I was supposed to go as passenger on the "Mongolia" to San Francisco.

Q. Why was it your chief mate gave you a ticket on the "Mongolia" from Yokohama to San Francisco?

A. I don't understand what you mean?

Q. What was the reason?

(Deposition of Patrick Murphy.)

A. To give me a passage to San Francisco.

Q. Under what obligation was he to send you as a passenger to San Francisco?

A. I don't know what you mean by that, as a steerage passenger to San Francisco.

Q. Do you know what the word "obligation" means? A. No, sir.

Q. Did he have to give you a ticket from Yokohama to San Francisco?

A. I don't know whether he had to or not, he gave it to me.

Q. Why did he give it to you?

A. I told you to send me as passenger to San Francisco.

Q. Did your mate pay for the ticket?

A. I couldn't tell that.

Q. Did you pay for it?

A. I didn't pay for it.

Q. Why were you going from Yokohama to San Francisco?

A. Because I was one of the captured crew of the "Barracuda."

Q. As a matter of fact, Mr. Murphy, you were captured by the Japanese, were you not?

A. Yes, sir.

Q. Taken to Yokohama? A. Yes, sir.

(Deposition of Patrick Murphy.)

Q. And there taken to the agents of the Pacific Mail, and the agents gave your chief mate a ticket for you, to San Francisco, on the "Mongolia"?

A. Yes, I guess they had to get them off the agent all right.

Q. And when you got on board the "Mongolia" this ticket was handed to you by the mate?

A. Yes, sir.

Q. How long had you shipped for on the "Barracuda"? A. I signed for 9 months.

Q. When did you sign?

A. I signed on the 22d of August, two days after the rest, there was a man quit and I shipped in his place; he quit on the 21st.

Q. You were bound on a voyage to Siberia and return? A. Yes, sir.

Q. You didn't know when you signed what part of Siberia? A. Yes, sir.

Q. Who told you?

A. The shipping commissioner read it out to us.

Q. It is in the articles, that part of Siberia you were bound for? A. Yes, sir.

Q. Can you read?

A. Well, a little, not much.

Q. Were you paid any money in Yokohama?

A. Yes, sir, I got money in Yokohama.

Q. Who from? A. From the agents.

(Deposition of Patrick Murphy.)

Q. Agents of the Pacific Mail?

A. Yes, sir.

Q. On account of your articles, the "Barracuda" shipping articles? A. Yes, sir.

Q. Under those articles you were to be returned to San Francisco? A. Yes, sir.

Q. And when you got this ticket it was part of the fulfillment of that contract; it was part of their obligation to return you to San Francisco?

A. Yes, sir, to return us to San Francisco.

Q. When you went to the gangway to leave the ship, who was stationed at the head of the gangway?

A. There was no one at the head; they were at the foot.

Q. Who was at the foot?

A. The quartermaster and two other men.

Q. Did they say anything to you?

A. No, never spoke to me.

Q. When you left the dock, after going off the ship, you met the purser, didn't you?

A. Yes, sir, met him at the corner of Hotel and Fort streets.

Q. Up to the time you met him you didn't know anything about quarantine regulations?

A. No, sir.

Q. He told you? A. Yes, sir.

(Deposition of Patrick Murphy.)

Q. When you went to the ship at 5:10 in the afternoon was the same quartermaster there?

A. Yes, sir, the same man.

Q. You know him?

A. I know him by sight.

Q. You are sure it was the quartermaster?

A. Yes, sir.

Q. Quartermaster on board the "Mongolia"?

A. Yes, sir.

Q. You had seen him often? A. Yes, sir.

Q. He had seen you, too? A. Yes, sir.

Q. Did you say anything to him?

A. I asked him if he wouldn't let us aboard, and he said he was told to let no one on board, only first and second-class passengers.

Q. At that time did you see anybody inside?

A. No, not at that time.

Q. I understand you came back again, at 9 o'clock? A. Yes, sir.

Q. Was the same quartermaster there?

A. Yes, sir.

Q. I understand that this quartermaster was the one at the gangway when you came down?

A. Yes, sir.

Q. That same quartermaster was at the gate at 5:10 and at 9 o'clock Friday night?

A. Yes, sir.

Q. You are sure? A. Yes, sir.

(Deposition of Patrick Murphy.)

Q. Who talked to him at 9 o'clock?

A. Mr. Iverson.

Q. Did you have any conversation with him?

A. No, sir.

Q. Did you hear the conversation at 9 o'clock at night; what was said?

A. I asked him if he was going to let us aboard, and he told us we must come back at 9 o'clock in the morning, and the quarantine doctor would be there to let us aboard.

Q. Did you at that time see anybody inside the gate?

A. Yes, sir, Miller and the Mexican sailor.

Q. What Miller?

A. Miller that went home on the "China."

Q. The man that sued in this case?

A. Yes, sir.

Q. Harry Miller? A. Yes, sir.

Q. Did you have any talk with him?

A. No, sir.

Q. Did anyone in your party have any talk with him? A. No, sir, no one there.

Q. You could have talked with him if you wanted to?

A. No, sir, he was away up the dock and we was at the gate.

Q. Did you call the attention of the quartermaster to the fact that Miller was inside the dock?

(Deposition of Patrick Murphy.)

A. No, sir; we thought he was in there and couldn't get out.

Q. You know now why you were refused?

A. Well, I was told on account of the quarantine.

Q. How many steerage passengers were there on board? A. I couldn't tell you.

Q. Well, were there two?

A. I guess nearer a hundred.

Q. And you have named all you can of those that came off?

A. Yes, sir, I have named all I can.

Q. Did you leave the ship as soon as you conveniently could, after she docked?

A. No, sir, I was up on deck when she docked.

Q. Well, how soon after she docked did you leave the ship?

A. I just went down and washed up and put on my shoes.

Q. Did you hear any talk about the steerage passengers being discriminated against?

A. No, sir, not on board.

Q. When did you hear it, ashore?

A. There must be a discrimination if we were not allowed to go on board.

Q. Where did you hear the talk? I asked if you heard it on board, and you said no; did you hear it on shore?

(Deposition of Patrick Murphy.)

A. Not about being on board the ship; a discrimination about us going on board the ship, not on the ship.

Q. When you got back the next morning at 8 o'clock who did you see?

A. We went to the gate again.

Q. Who did you see—did you see the same quartermaster?

A. No, there was another quartermaster in the morning.

Q. Did you know him?

A. I knew him by eyesight; I don't know his name.

Q. What talk did you have with him?

A. I asked him if we could go aboard; he said no, we couldn't go aboard.

Q. Is that all the talk?

A. That is all the talk I had with him.

Q. Didn't you learn about your clothes being thrown off?

A. No, sir, I never knew it until a while before the ship sailed; someone shouted they were going to put our clothes ashore.

Q. Do you know who it was?

A. No, sir. I shouted to a man, Jensen, quartermaster on the "Barracuda."

Q. What did you say?

(Deposition of Patrick Murphy.)

A. I told him my shoes was in a rack, and to pull them down.

Q. Did you have any talk about being left behind? A. No, sir.

Q. When you reach San Francisco you expect to draw your pay, do you not, under the articles?

A. Yes, sir.

(Objected to by Mr. Davis as immaterial, and not proper cross-examination.)

Q. Is that so?

A. I expect to get my pay when I get to San Francisco.

Q. Pay for the time you spent in Honolulu?

A. Oh, I will see about that later.

Q. I would like to know whether you expect that or not? A. Certainly I expect it.

Q. Now, aside from your razor, and your blue undershirt, and your vest, what other damage have you sustained by reason of being left here?

A. There was damage being left on this beach here without a cent, and the people in it.

Q. The damage is your being left on this beach without a cent? A. Yes, sir.

Q. You are as well off here as you would be on the ship?

A. I would be in San Francisco now, if this thing hadn't happened.

(Deposition of Patrick Murphy.)

Q. And you wouldn't be drawing wages under the articles?

A. Not in San Francisco. I could have got another job.

Q. You are being paid for this "Barracuda" job?

A. I haven't got it yet.

Q. You expect it? A. Yes, sir.

Q. Now, what damage have you suffered, what money damage from being left here? As a matter of fact, you haven't suffered any money damage, have you?

A. Well, I have suffered getting left about here, and everything else.

Q. What money damage have you suffered?

A. I have no money for to suffer damage.

Q. You had no money damage?

A. I had no money to suffer damage to money.

Q. Well, have you suffered any damages that can only be appeased by the payment to you of money?

A. Well, I am being kept here away from home, people and everything else.

Q. Is that all?

A. No, that is not all; another couple of days I would be barefoot, and have to bum somebody for a pair of shoes. These are a pair I got off Iverson. You can come and have a look at that (witness holds up his foot).

(Deposition of Patrick Murphy.)

Q. Well, then, I understand that you have worn out shoe leather? A. Yes, sir.

Q. That is a damage?

A. That is a damage, certainly.

Q. Now, what other damage have you suffered, besides the wear and tear of your shoe leather?

A. Getting a job in San Francisco; if I get there now I won't get anything. I may never get a job in this company again.

Q. That is damage, is it—you won't get a job again. Why?

A. Because on account of this lawsuit.

Q. Because you are suing this company?

A. Yes, sir.

Q. Any other damage?

A. I couldn't tell you any other.

Q. Isn't it a matter of fact that that is all?

A. Yes, that is all.

Q. You have made an affidavit here that you are going to leave Honolulu shortly, on a voyage. What voyage do you refer to?

A. Well, I might go to San Francisco or Manila. I am not sure which.

Q. Have you given up your return voyage to San Francisco? A. No, sir.

Q. Then you are going to San Francisco?

A. Yes, sir.

(Deposition of Patrick Murphy.)

Q. What boat are you going on?

A. I am not sure what boat.

Q. You have in contemplation no boat?

A. No, sir.

Q. Have you had an opportunity of leaving Honolulu since you were left by the "Mongolia"?

A. Yes, sir, I had a chance to go home on the "China."

Q. The Pacific Mail people offered you transportation on the "China"? A. Yes, sir.

Q. Free? A. Yes, sir.

Q. They offered to pay your board and lodging while you were here? A. Yes, sir.

Q. Mr. Murphy, before you brought this suit did you ever have a similar offer of that kind made you, an offer from the Pacific Mail agents to send you home on the "China" and pay your keep?

A. No, sir, they refused to pay our keep.

Q. Who was it said you could go home on the "China"? A. The agents.

Q. Did the agent tell you so?

A. He told Iverson, Morrissey and Miller.

Q. Did he tell you so?

A. No, sir, I was standing outside.

Q. How did you get information that the company would send you back?

A. Iverson was there and he told us.

(Deposition of Patrick Murphy.)

Q. Why didn't you accept that offer?

A. I wanted to give evidence in this case, and wouldn't go.

Q. But, mind you, this was before the case was brought. Had you in mind a case when you refused to go on the "China"?

A. Yes, I intended to give my evidence before I would leave this city.

Q. You then intended to sue the company?

A. Yes, sir.

Q. When was it that Mr. Klebohn offered you transportation on the "China"?

A. The first day we got in, that Saturday, the 28th, he told Iverson we could go back on the "China."

Q. And did he notify you when the "China" would sail?

A. Yes, he gave us notice last Saturday night.

Q. Did you ever hear, after the first offer came from Iverson, to send you back on the "China," of another offer from Mr. Klebahn to send you back, and pay your keep while you were waiting?

A. Yes, sir, I believe he told the attorney that.

Q. Why didn't you accept that?

A. Well, we wouldn't accept it, under the circumstances.

Q. What were the circumstances?

(Deposition of Patrick Murphy.)

A. That he would pay our keep and send us back on the "China."

Q. Well, wasn't that all you wanted?

A. No, sir, we wanted him to pay our attorney fees.

Q. So that before the suit was brought you refused the offer to return on the "China" free, and to have your board and lodging paid here?

A. Yes, sir.

Q. But if they had paid the attorney's fee you would have accepted? A. Yes, sir.

Q. At that time had you suffered any damage?

A. Yes, sir, I had suffered damage then, and was damaged, before the suit was brought, leaving me here without a cent, didn't know where to go.

Q. Friday night where did you go?

A. Walked about the town.

Q. Where did you sleep?

A. Slept nowhere.

Q. Were you with your companions, the other members of the crew? A. Yes, sir.

Q. And you all slept nowhere?

A. Well, some of them were down on the front, and had to get up for the mosquitoes.

Q. Where did you sleep Saturday night?

A. In the Sailors' Home.

Q. And have been there ever since?

(Deposition of Patrick Murphy.)

A. Yes, sir.

Q. Who runs the Sailors' Home?

A. I don't know the man's name.

Q. Have you ever had any talk with him?

A. No, sir, nothing but "good morning," or something like that.

Q. You never made any contract with the manager of the Sailors' Home?

A. No, sir; it was Iverson told me about that.

Q. You say Mr. Chillingworth is paying your board? A. Yes, sir.

Q. How do you know?

A. He gave us orders to go to the restaurant.

Q. You don't know whether he is paying it or not?

A. He said he was going to pay it.

Q. How do you get your meals?

A. We just go in there and eat; the men know us, and we walk out.

Q. Doesn't the man request you to pay?

A. No, we got an order from him.

Q. From whom?

A. Mr. Chillingworth.

Q. Mr. Chillingworth, the attorney?

A. Yes, sir.

Q. Why haven't you looked for work while here?

(Deposition of Patrick Murphy.)

A. I am not going to look for no work in this town.

Q. Why not?

A. Because there's no wages in it for me.

Q. What wages do you get?

A. Well, I am a fireman by trade, and sailing out of Frisco I get $50 a month, and in other ports get $45. I was a coal-passer on the "Barracuda."

Q. Isn't it a fact that one of the "Barracuda" crew has got a position on the Rapid Transit cars at $80 a month? A. Yes, sir.

(Objected to as not proper cross-examination.)

Q. Well, why couldn't you get a job?

A. I ain't good scholar enough.

Q. How much money did you get in Yokohama?

A. Forty dollars American money.

Q. You said you were obligated to pay Mr. Chillingworth, didn't you?

A. Well, I can't pay him when I got nothing to pay him with.

Q. Did you say you were obligated to pay Mr. Chillingworth?

A. When I get anything to pay him with I will pay him.

Q. It is a moral obligation?

A. I don't understand.

(Deposition of Patrick Murphy.)

Q. Your obligation amounts to this, doesn't it, if you win this suit you are going to pay him?

A. I guess so.

Q. That is it, isn't it? A. Yes.

Q. And if you don't win you don't pay him?

A. I didn't say that.

Q. Isn't that the contract, if you win you will pay him—mind you, Mr. Chillingworth lives in this town and I can put him on the stand?

A. Yes, sir.

Q. If you don't win you intend pay him?

A. Yes, sir.

Q. You mean you are going to pay him whether you win or not?

A. Yes, I am going to try to.

Q. Have you told him that you would?

A. Yes, sir.

Q. You have then obligated yourself to pay him whether you win or not?

(Objected to by Mr. Davis.)

A. I answered you twice before.

Q. Well, answer three times, then?

A. Yes.

Q. You have obligated yourself to pay him?

(Objected to by Mr. Davis as having been answered three or four times already.)

A. Yes, sir.

(Deposition of Patrick Murphy.)

Q. Is there any written paper between you and Mr. Chillingworth?

A. No, I wrote no paper.

Q. Never had any paper.

A. I never wrote a paper.

Q. Did you sign a paper?

A. Yes, I signed a paper.

Q. A paper to him?

A. I signed papers in a notary public's office.

Q. Relative to this suit? A. Yes, sir.

Q. Mr. Davis is your counsel, your lawyer?

A. Mr. Davis and Mr. Chillingworth.

Q. Is Mr. Chillingworth your proctor also?

A. Yes, and Mr. Davis.

Q. When this man, the purser of the "Mongolia," came around, you say you exchanged your ticket for a check? A. Yes, sir.

Q. You mean the purser took up your ticket and gave you this check? A. Yes, sir.

Mr. McCLANAHAN.—That is all.

Redirect Examination.

Mr. DAVIS.—Q. Now, Mr. Murphy, you have been asked about what damages you have suffered; you were prevented from going on the vessel?

A. Yes, sir.

(Deposition of Patrick Murphy.)

Q. You have obligated yourself to repay Mr. Chillingworth any money he pays out for your expenses while here?

(Objected to by Mr. McClanahan, as leading.)

A. Yes, sir.

Q. What was the value of the razor, the suit of underclothes and the other things you lost?

(Objected to as improper redirect examination, by Mr. McClanahan.)

A. Ten shillings and sixpence for the razor in Australia; $3.00 for the underwear in San Francisco, and, well, I had a vest, part of the suit of clothes—I suppose about $1.50.

Q. That was the value of these articles?

A. Yes, sir.

Q. Speaking of articles on the "Barracuda," where was that voyage terminated?

(Objected to by Mr. McClanahan on the ground that no evidence has been introduced that the voyage has terminated.)

Q. Was the vessel seized?

A. Yes, sir, captured by the Japanese.

Q. Why was she captured?

A. Because they had gone to war.

Q. Is it a fact that the Japanese officials came on board and seized the vessel? A. Yes, sir.

Q. Where? A. Near Saghalien Island.

(Deposition of Patrick Murphy.)

Q. Were you taken off? A. Yes, sir.

Q. Where did they take the vessel to?

A. Took us to Yokohama.

Q. Who did? A. The Japs.

Q. With a man-of-war?

A. No, sir; put a crew on board.

Q. And did you go off the vessel then?

A. No, sir; we stopped three or four days, till they put us ashore.

Q. Who put you ashore? A. The Japs.

Q. What did she have on board? A. Salt.

Q. Now, whether the "Barracuda" was being run by the Pacific Mail, or by some persons that chartered her, you do not know? A. I don't know.

Q. Then did the captain start from Yokohama to San Francisco, also?

A. No, sir, he is in Yokohama yet.

Q. But you were told to go home by the captain, because the Japanese had captured this vessel?

A. Yes, sir.

Q. Whether or not certain persons had chartered that vessel, and were operating her at the time, or the Pacific Mail was operating her, you do not know?

A. No, sir.

Q. You also do not know whether you will get paid for the time you are detained in Honolulu or not? A. No, sir.

(Deposition of Patrick Murphy.)

Q. That you are going to ascertain when you get to San Francisco? A. Yes, sir.

Q. You were most anxious to get to San Francisco? A. Yes, sir.

Q. You wanted to go on the "Mongolia"?

A. Yes, sir.

Q. You intend to leave by the first steamer that you can get away on? A. Yes, sir.

Q. You claim these damages for breach of the contract? A. Yes, sir.

Mr. McCLANAHAN.—Q. Breach of what contract?

A. To carry us from Yokohama to San Francisco.

Mr. DAVIS.—Q. Now, were your feelings injured when you were prevented from going on the vessel?

A. No, sir.

Q. Your feelings were not hurt. I mean when you went down to the dock and were refused admission to go on board?

A. Oh, it hurt my feelings all right.

Q. Now, is it a fact that you had been compelled to sleep out all night?

A. Yes, sir, compelled to walk about all night, Friday.

Q. No place to sleep?

A. No place to sleep, no money.

(Deposition of Patrick Murphy.)

Q. You say you are entitled to damages for that?

A. Yes, sir.

Q. And you feel that you have suffered $1,000 damages? A. Yes.

Mr. DAVIS.—That's all.

Recross-examination.

Mr. McCLANAHAN.—Q. Did you ever have $1,000 in your life?

A. Yes, more than $1,000.

Q. This razor was an old razor, was it not?

A. No, it wasn't an old razor.

Q. Did you buy it on board the ship?

A. I bought it when on the "Sierra" about three or four trips ago.

Q. How long ago?

A. About five months ago.

Q. You have been using it ever since?

A. Yes, sir.

Q. And paid 10 shilling and 6 pence for it?

A. Yes, sir.

Q. The blue underwear, was that old?

A. No, bought it when I left San Francisco.

Q. You had been wearing it? A. Yes, sir.

Q. How much did you pay for that?

A. Three dollars.

Q. How many times had you worn the vest?

A. Oh, dozens of times.

(Deposition of John Kennedy.)

Q. You paid $2.00 for it?

A. No, it cost about $1.50, I got it along with a suit of clothes.

Mr. McCLANAHAN.—That is all.

JOHN KENNEDY, a witness for the libelant; sworn and examined in the city of Honolulu, before Walter B. Maling, a United States Commissioner for the District and Territory of Hawaii, on the 9th day of November, A. D. 1905, gave testimony as follows:

Direct Examination.

Mr. DAVIS.—Q. What is your name?

A. John Kennedy.

Q. Are you a citizen of the United States?

A. Yes, sir.

Q. Where do you belong?

A. San Francisco, California.

Q. Is that your home now?

A. Yes, sir.

Q. On the 16th of October last where were you?

A. Yokohama.

Q. Where is that, Japan?

A. Japan; yes, sir.

Q. Were you about to make a voyage, and if so where? A. San Francisco, California.

Q. Did you apply for passage?

A. Yes, sir.

(Deposition of John Kennedy.)

Q. Who did you apply to?

A. The captain gave us the passage, told us to be ready.

Q. The captain of what?

A. Of the "Barracuda."

Q. Did you receive a ticket?

A. Yes, sir.

Q. What ticket did you receive?

A. Ticket from Yokohama to San Francisco.

Q. By what steamer?

A. The "Mongolia."

Q. Where is the ticket now?

A. I gave it to Mr. Chillingworth.

Q. Not the check, but the ticket?

A. I don't know.

Q. Who did you give the ticket to?

A. To you.

Q. But the ticket you got?

A. What ticket?

Q. Well, you got a ticket on board the "Mongolia," now what did you do with that ticket; you got a ticket on the "Mongolia," did the steward come around to collect the ticket?

A. Yes, sir; he gave me a ticket.

Q. You gave the ticket to the steward, and he gave you a check? A. Yes, sir.

Q. Now, you gave the ticket to the steward, and he gave you a check? A. Yes, sir.

(Deposition of John Kennedy.)

Q. And that check you delivered to me?

A. Yes, sir.

Q. That check was given to you on board the "Mongolia"? A. Yes, sir.

Q. By the steward?

A. No, sir, by the purser.

Q. Then you left Yokohama as a passenger, on board the steamship "Mongolia," bound for San Francisco? A. Yes, sir.

Q. What day did the vessel sail?

A. Left on the 18th.

Q. And when did you arrive in Honolulu?

A. Arrived in Honolulu the 27th of October.

Q. About what time did you get in here?

A. Got in Honolulu between two o'clock and half past two.

Q. What day? A. It was on Friday.

Q. Did the "Mongolia" go to the dock?

A. Yes, sir.

Q. Was she moored?

A. Yes, sir, moored to the dock.

Q. What dock? A. Hackfeld dock.

Q. Did you go ashore? A. Yes, sir.

Q. How long after the vessel was moored did you go ashore?

A. Between half-past 2 and 3 o'clock.

Q. On the day she arrived? A. Yes, sir.

(Deposition of John Kennedy.)

Q. Did anybody make objection to your coming ashore? A. No, sir.

Q. How long did you stay on shore?

A. Stayed on shore till—all night.

Q. But I mean did you go back to the vessel?

A. Yes, sir.

Q. You went back to the vessel?

A. Yes, sir.

Q. You went back to the vessel that same day?

A. Yes, sir, that same day. Twice that same day.

Q. Now, when you went back to the vessel—you went back to the dock that same day?

A. Yes, sir, that same day.

Q. Did you go on board the vessel?

A. No, sir.

Q. Why? A. Wouldn't be let.

Q. Who wouldn't let you?

A. An officer of the ship.

Q. Who?

A. Quartermaster, and watchman stopped me, and I couldn't get in.

Q. At the entrance of the dock?

A. At the entrance of the dock.

Q. What did they say to you?

A. Told me we couldn't get aboard; nobody was allowed that went ashore.

(Deposition of John Kennedy.)

Q. Did you tell him you was a passenger?

A. Yes, sir.

Q. You are sure that that was a quartermaster of the "Mongolia" who stopped you at the dock?

A. Yes, sir.

Q. Now, did you go back at any other time?

A. Went back at 9 o'clock that night.

Q. Of the same day?

A. The same night. Couldn't get in at all.

Q. They wouldn't allow you aboard?

A. No, sir, wouldn't allow us inside; couldn't get in at all.

Q. What was said then?

A. Quartermaster says for us to come around next morning, at 9 o'clock, and see the doctor.

Q. Did you go around the next day?

A. Yes, sir.

Q. What day was that? A. Saturday.

Q. The day she was to sail? A. Yes, sir.

Q. What happened in the morning when you went back?

A. We were told just the same.

Q. By whom? A. By the quartermaster.

Q. Of the "Mongolia"? A. Yes, sir.

Q. He stopped you at the gate?

A. Stopped us right at the gate.

Q. What did he say to you?

(Deposition of John Kennedy.)

A. He told us we couldn't go inside at all in the dock.

Q. What time did the vessel sail on that day?

A. Between 11 and half past.

Q. How many applications did you make to get on that steamer in Honolulu?

A. Three or four, I believe.

Q. What is the reason you didn't get on board?

A. Because we went ashore, as I understand it.

Q. Who prevented you from going on board?

A. The quartermaster and watchman told us we couldn't get in.

Q. Did you see the ship sail on that day?

A. Yes, sir.

Q. What time was it on that day that you went back, in the morning? A. About 8 o'clock.

Q. Did you stay there till the vessel sailed?

A. Stayed till she sailed; yes, sir.

Q. What was your destination?

A. San Francisco.

Q. Had you any money when you came ashore?

A. No, sir.

Q. Where have you remained, here in Honolulu since that time? A. Yes, sir.

Q. Where have you been staying?

A. Sailors' Home.

Q. Who has been supplying the money?

(Deposition of John Kennedy.)

A. (Mr. DAVIS.) Mr. Chillingworth.

Q. You have been borrowing the money from him to pay your board and lodging?

A. Yes, sir.

Q. Where have you been dining—where do you get your meals?

A. At the Palace Restaurant.

Q. What do you pay for your board?

A. Two bits, I believe.

Q. How much a day? A. Six bits.

Q. How much for lodging?

A. I believe it is two bits a night.

Q. That means $1.00 a day? A. Yes, sir.

Q. Had you any business in San Francisco?

A. No, sir, no business.

Q. Well, had you anything to do when you got to San Francisco?

A. Well, anything I could get to do.

Q. You intended to go to work, did you?

A. Yes, sir.

Q. I see you claim in this libel $1,000 damages?

A. Yes, sir.

Q. What damages do you feel that you have sustained that would compensate you—you feel $1,000 would compensate you? A. Yes, sir.

Q. Have you tried to get work since you have been here? A. No, sir, I have not.

(Deposition of John Kennedy.)

Q. Were you acquainted with other steerage passengers on board that came on the same voyage with you? A. Yes, sir.

Q. How many did you know?

A. Well, I knew the crew of us, and a couple of strangers I met ashore.

Q. Did you see any steerage passengers come ashore besides yourself? A. Yes, sir.

Q. Did you see them go on board the vessel again? A. Yes, sir.

Q. When? A. The same day.

Q. That you was refused? A. Yes, sir.

Q. Who were they?

A. Well, I couldn't call their Spanish names.

Q. I mean the people that went aboard the vessel, that got aboard, the other steerage passengers?

A. I couldn't call their names.

Q. What nationality were they?

A. They were Spanish.

Q. And any others?

A. That is all I know, the Spanish fellows.

Q. You saw them go aboard?

A. Yes, sir; I know they were ashore and went aboard.

Q. You were refused?

A. Yes, sir, I was refused.

(Deposition of John Kennedy.)

Q. Did you see these people up town, these Spaniards? A. Yes, sir, I seen them up town.

Q. And you say they got aboard before the vessel sailed? A. Yes.

Q. You know they were on board and left in the vessel?

A. Yes, sir, and I knew one to sleep on the dock all night.

Q. You say that no one said anything to you about not going ashore?

A. No, sir, no one stopped me at all.

Q. When you applied to get on board the vessel again were you in good health? A. Yes, sir.

Q. What became of your clothes, do you know?

A. They were put ashore on the dock.

Q. Did you get them all?

A. Yes, sir, got all my clothes.

Q. You have been compelled to remain here ever since? A. Yes, sir.

Cross-examination.

Mr. McCLANAHAN.—Q. Mr. Kennedy, you don't mean you have been compelled to remain?

A. Yes, sir, we were told—we were compelled to stay here.

Q. Who told you that?

A. I seen no way of getting out.

(Deposition of John Kennedy.)

Q. Who told you you were compelled to remain here? A. No one told me that.

Q. You said you were told to stay here? Who told you that? A. Nobody told me.

Q. You said you were told you were compelled to stay here?

A. I wasn't told I was compelled, but I couldn't see no other way of getting out.

Q. Couldn't you have gone aboard the "China"?

A. Yes, sir.

Q. You knew when she got here?

A. Yes, sir.

Q. You knew when she sailed?

A. Yes, sir, I could have gone on the "China."

Q. So you were not compelled to stay?

A. No, sir.

Q. How long are you going to stay here?

A. I couldn't say.

Q. You have no plans to go away?

A. No, sir, not at present.

Q. Can you read English, Mr. Kennedy?

A. Yes, sir.

Q. Will you please read that? (Handing witness his affidavit on which this examination is proceeding. Witness reads the same and hands it back.)

Q. Now, what voyage is it you were bound on, Mr. Kennedy, that was going to take you a great distance, a greater distance than 100 miles from this city?

(Deposition of John Kennedy.)

A. Going to San Francisco.

Q. You read this affidavit, didn't you?

A. Yes, sir.

Q. In that you state that you are bound on a voyage to sea, about to go out of this district, what boat are you going to take?

A. The first boat I can get, I guess.

Q. You could have gotten the "China," couldn't you? A. Yes, sir.

Q. Got free passage, too, couldn't you?

A. Yes, sir.

Q. Why didn't you take it on the "China"?

(Objected to by Mr. Davis as incompetent, irrelevant and immaterial.)

A. Well, I didn't want to go because I had a suit here, I was going to wait for the suit.

Q. Do you intend now to wait for the suit?

A. Yes, sir.

Q. Do you understand, Mr. Kennedy, that you have made an affidavit that you are about to leave this district, and now you state you are going to wait till the suit is tried?

A. We are supposed to stay until after we give our testimony.

Q. After you give your testimony you are going away? A. Yes, sir.

Q. What boat are you going on?

(Deposition of John Kennedy.)

A. I don't know which boat I can get yet.

Q. So that you have now in mind no boat on which you are going to leave Honolulu?

A. No, sir, not at present.

Q. How much money did you borrow from Mr. Chillingworth? A. I couldn't tell you.

Q. Why not?

A. Ever since the time we have been here, from the day we arrived, the 27th.

Q. When did he pay you the money?

A. He paid me no money.

Q. I think you said borrowed?

A. I haven't borrowed it; he is the man that is fixing our board and lodging.

Q. You have agreed to pay Mr. Chillingworth?

A. If we win the suit, yes, sir.

Q. If we win; if you don't win you don't pay him?

A. No, sir; maybe hereafter we will pay him; I can't tell.

Q. You say that you were going to San Francisco? A. Yes, sir.

Q. On the "Mongolia"? A. Yes, sir.

Q. You had no business at the other end?

A. No, sir, not at present I had no business; just the same as any ordinary workingman, look for another ship and maybe get another job.

(Deposition of John Kennedy.)

Q. Did you expect to collect money at the other end?

A. Yes, sir, for what was coming to me for work I have done for the Pacific Mail Company.

Q. Are you working for the Pacific Mail Company?

A. Well, I don't know—it was chartered from the Pacific Mail Company.

Q. You have money coming under that?

A. Under that—I don't know which one it is.

Q. You signed articles? A. Yes, sir.

Q. Were you paid anything in Yokohama by the Pacific Mail?

A. We were given money in Yokohama.

Q. Under those articles?

A. Under those articles we were given money in the Pacific Mail Office. We signed our names.

Q. You receipted for the money?

A. Yes, sir.

Q. Did you pay out any money to the Pacific Mail Company, in Yokohama? A. No, sir.

Q. How did you get a ticket?

A. The captain gave it to us.

Q. What captain?

A. The captain of the "Barracuda"; Captain Curtis.

Q. You never paid for that ticket?

(Deposition of John Kennedy.)

A. No, sir.

Q. Do you know why you got that ticket?

A. To take us to San Francisco.

Q. Yes, but why?

A. To take us home—it was coming to us.

Q. That was your agreement?

A. No, sir, that wasn't part of the articles.

Q. You were bound on a voyage to Siberia and return, for nine months?

(The above answer and the question following were objected to by Mr. Davis, on the ground that no articles have been produced in evidence, and as being immaterial and not proper cross-examination.)

A. Yes, sir.

Q. You were bound on a voyage to Siberia, and to return to San Francisco within nine months?

A. Yes, sir.

Q. When did you sign those articles?

A. I signed on the 19th of August.

Q. Did you sign it personally?

A. Yes, sir.

Q. How was it you signed them?

A. I couldn't tell you exactly how they read now.

Q. How did you sign your name?

A. John Kennedy.

(Deposition of John Kennedy.)

Q. Will you please sign your name on this sheet of paper, as you signed on the articles? (Hands witness a piece of paper.)

(Objected to by Mr. Davis as immaterial, and not proper cross-examination.)

(The witness signs the paper.)

(Mr. McClanahan offered this paper in evidence and asked that it be marked Libelee's Exhibit "A," and the same was allowed by the Commissioner. Objected to by Mr. Davis, as incompetent.)

Q. As a matter of fact, you were given your transportation, in Yokohama, because the Japanese had captured the "Barracuda" and you were to be sent home to San Francisco, under your articles, by the Pacific Mail Company, is that not so?

A. Yes, sir.

Q. When you arrived in the city of Honolulu, on the "Mongolia" on the 27th, you were under pay, were you not?

A. Yes, sir.

Q. Of the charterers, or the Pacific Mail people?

A. Yes, sir.

Q. And when you reach San Francisco, on this voyage that you contemplate making, you intend to receive, or make a claim for the pay which is coming to you under these articles?

A. Yes, sir.

(Deposition of John Kennedy.)

(Objected to by Mr. Davis as being immaterial.)

Q. What time do you say the "Mongolia" arrived at the dock?

A. Between 2 and half-past 2.

Q. Are you not mistaken there?

A. No, sir.

Q. Arrived, on Friday, between 2 and half-past 2? A. Yes, sir.

Q. When did you leave the ship?

A. Between half-past 2 and 3 o'clock.

Q. Did you leave with Iverson?

A. Yes, sir.

Q. Iverson says the ship docked at 11 or 11:30. I want to know when the "Mongolia" docked here, when she arrived?

A. He means she was sighted; she wasn't at the dock at half-past 11, but between 2 and half-past 2.

Q. Then Iverson is mistaken when he says she docked at 11 or half-past 11?

A. Yes, sir, Iverson was mistaken.

Q. Had you had your lunch when you left the ship?

A. Yes, sir, at half-past 11.

Q. She was not docked then? A. No, sir.

Q. She was not docked till 2 o'clock or half-past 2? A. Between 2 and half-past 2.

Q. As soon as she docked you left the ship?

A. No, sir; between half-past 2 and 3 o'clock.

(Deposition of John Kennedy.)

Q. The cabin passengers were going ashore?

A. They had gone ashore.

Q. Why didn't you go when they went?

A. We went after they went.

Q. You left immediately after?

A. No, sir, not immediately.

Q. Why didn't you?

A. We weren't ready.

Q. What were you doing?

A. Nothing—we were on deck.

Q. Why were you not ready?

A. I don't know, we were in no hurry to be ready.

Q. What preparation had you to make?

A. Had no preparation at all.

Q. Then you were ready, were you not?

A. Not quite ready, we washed and one thing or the other, washing our faces.

Q. How long were you washing your faces before you went ashore?

A. I guess we were gone 10 or 15 minutes after the cabin passengers left.

Q. Are you in the habit of washing your face after lunch? A. No, sir, not always.

Q. Did you go down the same gang plank as the cabin passengers? A. Yes, sir.

Q. Who was at the head of the gang plank?

(Deposition of John Kennedy.)

A. The quartermaster and two officers; I don't know whether in the Immigration Service or the Custom-House.

Q. Had you known this quartermaster?

A. Yes, sir.

Q. He knew you?

A. No, sir; he didn't know me.

Q. You knew his face, had learned it on the voyage?

A. I seen him on the voyage, yes, sir.

Q. Did you not know that the steerage steward had told the steerage passengers they were not allowed ashore?

A. No, sir, never knew nothing about it.

Q. Don't know it to this day?

A. No, sir, I don't know it to this day, till after the ship was gone. When we were ashore we heard it.

Q. On the ship you had not heard it?

A. No, sir, no one said a word.

Q. Perhaps you were down below, washing?

A. No, sir, I was on deck.

Q. You were on deck with the other steerage passengers? A. Yes, sir.

Q. So that if that notice was given, if any notice was given at all you could have heard it?

A. Yes, sir, I could have heard it.

Q. Did you say anything to this quartermaster?

(Deposition of John Kennedy.)

A. No, sir.

Q. Did he say anything to you?

A. No, sir, not a word.

Q. Did he see you go off the ship?

A. Yes, sir, couldn't help seeing me.

Q. You came off with the other members of the crew? A. Yes, sir.

Q. How many of you?

A. Four of us—Iverson, Morrissey, Roe and myself.

Q. You knew the steerage steward, did you?

A. Yes, sir.

Q. Where was he when you went off?

A. I don't know; I didn't see him at all when I went off.

Q. You remember his sticking his head out of the port, and telling you not to go ashore?

A. No, sir, he never said anything of the kind.

Q. How soon after you got ashore was it you learned the quarantine regulations didn't permit the steerage passengers to go ashore?

A. Around 5 o'clock.

Q. Where did you learn that?

A. I was standing at the corner of Fort and Hotel streets, and the purser of the ship came along.

Q. What did he tell you?

A. He asked if we were the crew of the "Barracuda" and we said "Yes, sir," and he said. "You got

(Deposition of John Kennedy.)

an awful gall to be coming ashore," and "Who gave you permission?" and we said no one. Then he said we had an awful gall and ought to pray to God to get aboard the ship, and our wages was stopped.

Q. You told him—that was the first time you had an intimation that the regulations prevented your going ashore? A. That was the first time.

Q. He told you then about the quarantine regulations?

A. He said we ought to pray to God to get back to the ship.

Q. I want to make it clear that the purser told you of this quarantine regulation?

A. Yes, sir.

Q. What did you do when you learned that from the purser?

A. We stayed there about ten minutes, and then went down and couldn't get in.

Q. Who did you see?

A. The watchman and the quartermaster.

Q. The same quartermaster you had passed on the gang plank? A. No, sir, another one.

Q. What did you say?

A. We asked if we could get in.

Q. You asked him that?

A. I didn't ask him.

Q. Who did?

(Deposition of John Kennedy.)

A. I couldn't say which; we was all there trying to get in and we were stopped.

Q. Who was the spokesman?

A. I don't know.

Q. You don't know who asked?

A. No, sir.

Q. Do you know if he was asked at all?

A. I know he was asked; I think there was five of us there. There was four or five, I couldn't say which.

Q. Who were the five?

A. There was Iverson, Morrissey, Roe and myself.

Q. What about Miller?

A. I don't know if he was there that night or not.

Q. This was in the afternoon?

A. This was in the night-time.

Q. Miller was not at the corner of Fort and Hotel streets? A. No, sir.

Q. So it was only you five who had notice?

A. Yes, sir.

Q. Who of you five was it that talked with the watchman?

A. I don't know whether it was Iverson or not.

Q. Was it Roe? A. I couldn't say.

Q. You are sure it wasn't yourself?

A. I know I didn't speak.

Q. Well, Iverson says he didn't speak?

(Deposition of John Kennedy.)

A. I couldn't swear to which one it was.

Q. I understand they said they couldn't let you in the dock?

A. Yes, sir, that we couldn't be allowed in, couldn't go aboard that ship.

Q. What did you do next?

A. We went away.

Q. What did you do?

A. Went up the street, up town.

Q. You didn't go to see the agents?

A. Not at that time.

Q. When did you next appear at the dock?

A. 9 o'clock.

Q. Who did you see there then?

A. There was the watchman, the quartermaster, and there was others too.

Q. The same watchman? A. I don't know.

Q. What about the quartermaster, was he the same one you saw in the afternoon?

A. Yes, sir, I believe it was the same.

Q. What did you go there for at 9 o'clock?

A. So we could get in.

Q. Hadn't he told you you couldn't get in?

A. Yes, sir.

Q. Then what did you go there at 9 o'clock for?

A. I wasn't there in the afternoon.

Q. You told me you met the purser, at Fort and Hotel streets, and you went to the vessel about ten

(Deposition of John Kennedy.)

minutes after that. Now, you told Mr. Davis you went at 9 o'clock at night? A. Yes, sir.

Q. What was it you went there for?

A. I went to know if we couldn't get in.

Q. What made you think so?

A. I don't know.

Q. Who had you seen in the afternoon, of the steerage passengers, ashore?

A. I seen one of the Spanish fellows ashore.

Q. Did you have a talk with him?

A. No, sir, had no talk with him.

Q. Who had you seen that you talked with, that made you think you could get on the vessel?

A. Nobody.

Q. Then why did you go there at 9 o'clock that night?

A. We thought we would try again to get in.

Q. What was the conversation?

A. None at all, just walked away.

Q. You didn't speak?

A. They spoke to him.

Q. Who?

A. I don't know which one.

Q. Was it Iverson?

A. I don't know which of the five.

Q. All five were down there, was Miller there?

A. No, sir, he wasn't there.

Q. Who else did you see there?

(Deposition of John Kennedy.)

A. A sailor—a Chilean, I think, they called him.

Q. Was he inside the dock?

A. He was inside the dock.

Q. You had seen him outside, had you?

A. No, sir, I wouldn't swear I saw him outside.

Q. Did you ask him how he got in?

A. No, sir.

Q. Why not? A. He was too far down.

Q. How far?

A. From here to that door (showing about 30 feet).

Q. Was that too far?

A. Well, I didn't holler and he doesn't understand good English. He and Miller sleep together that night on the dock.

Q. One of the libelants in this case?

A. Well, he isn't now; he has gone home

Q. Who has gone home? A. Miller.

Q. He brought suit, didn't he—when did he go?

A. Went on the "China."

Q. You know why he left?

A. I don't know; he had the same inducements to go as we had.

Q. What was that?

A. Got passage on the "China."

Q. And expenses paid here? A. Yes, sir.

(Deposition of John Kennedy.)

Q. Didn't you speak to Miller that night, at 9 o'clock?

A. No, sir, I didn't speak to him at all.

Q. Why not?

A. I didn't get a chance to speak to him.

Q. Where was Miller?

A. Down on the dock.

Q. Inside the dock? A. Yes, sir.

.Q Didn't you ask him how he got there?

A. No, sir, I did not.

Q. Why not?

A. I don't know.

Q. Wasn't he inside and you wanted to get in?

A. Yes, sir.

Q. And you didn't ask him how he got there?

A. No, sir.

Q. You thought the quartermaster was discriminating against you five as against Miller?

A. No, sir.

Q. How did you reason it out, that he should be allowed inside and you were not?

A. We didn't have any reason about that. They told us to come at 9 o'clock the next morning, and we thought it would be all right.

Q. Now, as a matter of fact, didn't someone at the gate tell you that if you would go inside and agree

(Deposition of John Kennedy.)

to stay all night on the dock, that you could be next morning inspected by the physician and go aboard?

A. Not at that time.

Q. When did you first hear of it?

A. That night at 9 o'clock.

Q. Who told you?

A. The quartermaster or the watchman; I don't know which.

Q. Why didn't you stay there, then?

A. He never told us to go on the dock; he told us to come around next morning.

Q. What did he say about going around next morning?

A. He told us to come next morning, and the doctor would be there and it would be all right.

Q. Miller stayed all night on the dock?

A. Yes, sir, he claimed he did.

Q. You saw him next morning?

A. Yes, sir, I seen him next morning; he said he couldn't go. It was Miller that asked the doctor what he was going to do, and he said he didn't know.

Q. Did he tell you why?

A. I didn't ask him why.

Q. Why not?

A. I didn't ask no questions.

Q. Are you not shipmates? A. Yes, sir.

(Deposition of John Kennedy.)

Q. You and four men stayed at the Sailors' Home and Miller slept at the dock, and you didn't ask him why the next morning? A. No, sir.

Q. Do you know why he slept on the dock?

A. He had no other place to go.

Q. He had the same place you had?

A. No, sir, he didn't.

Q. Why not?

A. He wasn't with us.

Q. If he had been with you he would have had the same place? A. I guess he would.

Q. Did you go around about 9 o'clock the next morning? A. No, sir, about 8 o'clock.

Q. Between the time of your going there at 9 o'clock and your coming off the boat, had you seen any of the agents of the steamship company here; between 9 o'clock and the time you left the ship Friday afternoon? A. No, sir.

Q. You had seen none of the officers of the ship, except the quartermaster and the purser?

A. Yes, sir, that is all.

Q. Will you tell us who else of the steerage passengers you had seen, up to 9 o'clock?

A. I only seen one, that was the Spanish fellow; I saw him walking around town.

Q. And you saw the other Spaniard?

(Deposition of John Kennedy.)

A. Yes, sir, on the dock.

Q. What did you do at 9 o'clock, when you arrived there? A. Tried to get in.

Q. How did you try to get in?

A. Asked if we could get in and we were stopped, and walked away.

Q. Didn't you ask the quartermaster what he meant?

A. He said that was his orders; we wasn't allowed in.

Q. And all this time you knew you were not allowed in because of the quarantine regulation about your leaving the ship?

A. Didn't know till the purser told us; he told us we ought to be thankful to God if we got on board again. He said to thank God if we got aboard.

Q. Didn't you tell me you first learned of the quarantine regulations from the purser?

A. That was the first time.

Q. And that was the thing that kept you from going on board the ship again?

A. He told us to go down and try to get on, and we did.

Q. How long were you at the dock that Saturday morning?

A. From 8 o'clock till after she left, after 11 o'clock, I guess she left between 11 and half past.

(Deposition of John Kennedy.)

Q. Did you see the doctor?

A. I asked him what are we going to do, and he said he didn't know and walked away.

Q. When was this?

A. About 20 minutes or half an hour before she sailed.

Q. How far was the ship lying from where you were outside the gate?

A. Oh, it was right up there; the bow was right up there.

Q. Did you have any talk with anyone on the ship? A. No, sir, no one.

Q. You saw your friends on the ship, and didn't speak to them?

A. Spoke to them, that was all.

Q. How did you get your clothes down?

A. They were put on the dock. Idon't know who put them.

Q. Who told you so?

A. A couple of men on the forecastle head told us that they put our clothes on the dock.

Q. Who were they?

A. One Italian fellow and a man named Jensen, from the "Barracuda."

Q. He didn't come off the ship?

A. No, sir.

Q. Why didn't he?

(Deposition of John Kennedy.)

A. I don't know.

Q. Didn't he tell you why?

A. No, sir, I never asked him.

Q. He was the carpenter?

A. No, sir, I didn't have any conversation with the carpenter.

Q. The carpenter was on the ship, and left on the ship? A. Yes, sir.

Q. You didn't see him, though? A. No, sir.

Q. Why haven't you tried to get work here, Mr. Kennedy?

A. Well, I haven't tried yet; I was waiting for this to get over. In fact, I wouldn't know where to look for a job.

Q. You are going away, are you not, as soon as this thing is over?

A. I will if I get the chance to go away.

Q. You are not trying to get work here?

A. No, sir, I haven't tried yet.

Q. You are bound for San Francisco?

A. Yes, sir.

Q. Didn't you speak to anyone about the apparent discrimination that was made between you and these Spaniards you had seen ashore and afterwards saw on the ship? A. No, sir, I did not.

Q. How did you learn to go to the Sailors' Home?

A. We came down here and asked.

(Deposition of John Kennedy.)

Q. Asked who?

A. A man down here told us we could stay if we went there.

Q. What is his name?

A. I couldn't tell you.

Q. Did he have anything to do with the Sailors' Home?

A. Some of the boys asked him, and he told us we could go down that night.

Q. Do you remember going to the steamship company's office? A. Yes, sir.

Q. And who watched your baggage for you while you went in there? A. Sheenan.

Q. When did you first meet Sheenan?

A. We met him up town there.

Q. Did he tell you anything about the Sailors' Home? A. No, sir.

Q. Who is the proprietor of the Sailors' Home?

A. I don't know.

Q. Did you ever meet him? A. No, sir.

Q. Never had any talk with him?

A. No, sir, never spoke to him.

Q. Who made your arrangements with the Sailors' Home? A. Mr. Chillingworth.

Q. You first met Mr. Chillingworth at his office?

A. I met Iverson, and he said come up to Mr. Chillingworth's. I didn't know where to go, but I went with the crowd.

(Deposition of John Kennedy.)

Q. Who suggested going to the company's office?

A. All of us suggested to go and see the agent.

Q. When did you arrive at that decision?

A. Right after the ship left.

Q. What for?

A. To see if we couldn't get some money that was coming to us from the "Barracuda."

Q. You didn't go to see about getting out of town?

A. I wasn't in the office, there was Iverson, Morrisey and—

Q. I thought you told me that this man Sheenan watched your baggage while you were in the agent's office, stayed outside while you were in there?

A. I didn't go; Iverson, Morrisey and Miller went inside.

Q. Have you ever been inside?

A. Yes, sir, been in there once.

Q. When was this, that you stayed outside and Iverson, Morrisey and Miller went inside?

A. That afternoon.

Q. They went in to get some money?

A. They went in to ask him, to see what they could do about money.

Q. Had you seen Chillingworth at that time?

A. No, sir.

Q. Where had you slept Saturday night?

A. Sailors' Home.

(Deposition of John Kennedy.)

Q. Where did you dine on Saturday?

A. At the Palace Restaurant.

Q. How did you do it without money?

A. He gave us an order.

Q. Who?

A. Mr. Chillingworth.

Q. I think you stated you hadn't seen him when you went to the agent's office?

A. I was mistaken.

Q. You had seen him when you went to the steamship company's office? A. Yes, sir.

Q. And you had made arrangements to secure board and lodging? A. Yes, sir.

Q. When did you go to see Chillingworth, now that your memory is refreshed?

A. I couldn't say what time it was now

Q. Was it after 9 o'clock Saturday night?

A. No, sir.

Q. What did you do Sunday for something to eat?

A. It was all arranged; I don't know who it was arranged it.

Q. Did you ever have any dealings with Mr. Chillingworth, personally?

A. No, sir, I never had dealings with him.

Q. Mr. Kennedy, what damage have you suffered?

A. A great deal, worn my clothes out, and had to throw away my pants and had to borrow these off a shipmate, and lost my vote for another thing.

(Deposition of John Kennedy.)

Q. Where is your home?

A. In San Francisco.

Q. You say you have worn out a pair of pants since the 27th of October until this time?

A. Yes; and I may have lost another ship. I guess I will never get another ship from that company.

Q. Mr. Kennedy, since October 27th to this time you are claiming pay under the articles of shipment by which you made a voyage on the "Barracuda," are you not? A. Yes, sir.

Q. Well, now, what have you done to wear out your trousers in these past few days?

A. Well, sitting around and one thing or another.

Q. And yet you are drawing pay, and are entitled to—

A. I don't know whether I will get pay or not.

Q. You contend that you are entitled to pay under these articles?

A. Well, I should think we ought to, our destination is San Francisco.

Q. Were these trousers new?

A. No, sir, not new.

Q. How long had you worn them when you arrived in this port?

A. I couldn't tell you how long; I haven't put them on since leaving San Francisco, only when in Yokohama.

(Deposition of John Kennedy.)

Q. Well, if they wore out between the 22d day of October and November, you had them a long time?

A. Yes, sir.

Q. What did you pay for them originally?

A. Ten dollars.

Q. Well, how much do you think they were worth?

A. They are not worth nothing now.

Q. What were they worth on the 27th of October?

A. I couldn't say.

Q. What other damage have you suffered?

A. Well, I have been away from San Francisco quite a while.

Q. Well, you are under pay? Well, what other damage have you suffered?

A. Well, nothing. In fact, I have lost a vote, which I wouldn't have liked to lose.

Q. Well, you were under articles for 9 months, were you not? A. Yes, sir.

Q. And when did you sign these articles?

A. The 19th of August.

Q. So you had agreed to lose your vote?

A. Yes, sir.

Q. What other damage have you suffered?

A. Nothing else.

Q. You haven't suffered on account of board and lodging, because another fellow paid that?

A. Yes, sir.

(Deposition of John Kennedy.)

Q. And you have been offered transportation to San Francisco? A. Yes, sir.

Q. Didn't you hear some talk on board the "Mongolia" among the steerage passengers about discrimination being made against the steerage passengers?

A. No, sir, I never heard any talk about discrimination.

Q. You didn't think there was any?

A. No, sir, I didn't see why there should be any.

Q. Did you ever have it explained to you why some of the steerage passengers didn't go ashore?

A. No, sir.

Q. Did you not think it was strange?

A. No, sir, I didn't think so.

Q. Do you know of any steerage passengers that went ashore, except your bunch, leaving out these Chileans?

A. Well, I couldn't call their names in English, one Norwegian and one citizen.

Q. Did they come ashore with you?

A. No, before us.

Q. Do you know of anyone else that had gone ashore, when you went ashore?

A. No, sir, I do not.

Q. How many steerage passengers were there, approximately, on the "Mongolia"?

(Deposition of John Kennedy.)

A. Well, there was all the crew that I know, and some Hindoos, and one oiler—

Q. Was there 100? A. No, sir.

Q. Fifty?

A. I don't think so; between the Japanese and Chinese I guess there was more than that.

Q. Well, how many white men?

A. Well, there was the "Barracuda's" crew.

Q. How many of the "Barracuda's" crew were on the "Mongolia" when she arrived?

A. Well, I couldn't exactly tell you how many there was; everyone off her but the chief engineer, the captain and first mate and first assistant engineer.

Q. How large a ship was the "Barracuda"?

A. I couldn't tell exactly.

Q. Did she have a crew of 25 men?

A. Over 25.

Q. Was there 50? A. No, sir.

Q. Forty? A. No, sir.

Q. Thirty-five?

A. Thirty-five or thirty-seven, I couldn't say.

Q. They were all on the "Mongolia"?

A. All outside those four I have named. And there was one oiler that didn't go, that joined the "Manchuria" in Yokohama.

Q. And out of all the crew only six came ashore?

(Deposition of John Kennedy.)

A. I couldn't say how many.

Q. That is all you know, of all the "Barracuda" crew, only six came ashore?

A. Seven, I believe.

Q. Who is the other? A. Baker.

Q. Where is he now?

A. He got a job, conductor on the cars.

Q. Here in Honolulu? A. Yes, sir.

Q. He got work? A. Yes, sir.

Q. Do you know why the balance of the crew didn't come ashore? A. No, sir.

Q. There was you, Kennedy, with Roe, Morrissey, Iverson, Miller and Baker and Murphy; well, the men of the crew of the "Barracuda" that came ashore were intimate shipmates, were they not?

A. Yes, sir, all shipmates.

Q. That is, you six or seven fellows were congenial shipmates?

A. Oh, we were all about the same; all didn't go together. Miller and Roe was ashore before we was, and Baker was ashore before we was.

Q. Did you see Miller and Baker go ashore?

A. No, sir, I didn't.

Q. How do you know they were ashore?

A. They were on the dock ahead of us.

Q. Did you have any conversation with your other four shipmates?

(Deposition of John Kennedy.)

A. No, sir. We asked them if they were going up town, and they didn't say anything, so we walked up, and met Roe and Miller up town.

Q. Before you left the ship I understand you saw Miller and Roe outside; did you have any conversation with them while you were on the ship?

A. No, sir, they were too far up.

Q. Did you have any conversation, before you started to go down the gangplank, with the men you came down with? A. No, sir.

Q. You didn't say, even, "Let's go ashore"?

A. No, sir.

Mr. McCLANAHAN.—That is all.

Redirect Examination.

Mr. DAVIS.—Q. Now, Mr. McClanahan has asked you what damages you suffered; you were prevented from going on the "Mongolia" by the quar-

A. Yes, sir.

Q. Did you intend to sail on the "Mongolia" direct to San Francisco? A. Yes, sir.

Q. What was your intention when you got to San Francisco, to get work?

A. Certainly, yes, sir.

Q. And you were refused permission to go on the vessel, by the quartermaster? A. Yes, sir.

Q. Did it hurt your feelings, were you offended?

(Deposition of John Kennedy.)

A. Yes, sir, I would have liked to have got on.

Q. And did the ship's agents, or the Pacific Mail people supply you with money since you have been here? A. No, sir, nothing.

Q. And you have been compelled to apply to Mr. Chillingworth for the necessaries of life, and that money that he expends you intend to repay?

A. Yes, sir.

Q. And after you give your evidence you intend to leave by the first ship? A. Yes, sir.

Q. If you had got to San Francisco you would have been in time for this election, and in consequence of not going you have lost your right to cast your ballot? A. Yes, sir.

Q. And every time you applied for permission to go on that ship you were in good health?

A. Yes, sir.

Mr. Davis here asked permission to continue the examination of Mr. Kennedy the next day, November 10th, at 4 P. M., which was granted by the Commissioner and counsel for libelee, at which time, all the above-named parties being present, Mr. Kennedy was put on the stand and again questioned by Mr. Davis, as follows:

Mr. DAVIS.—Q. You spoke of a check you received from the purser of the "Mongolia" when you

(Deposition of John Kennedy.)

started on the voyage, in exchange for your ticket, is that the check (showing)?

A. Yes, sir.

Q. This is the check that was delivered to you by the purser in exchange for a ticket, as passenger on board the "Mongolia" on the voyage between Yokohama and San Francisco? A. Yes, sir.

Mr. Davis here offered the check in evidence, and asked that it be marked as Libelant's Exhibit No. 1. So ordered by the Commissioner. The check above referred to is in the words and figures following:

"(2-1-05-3 M) S. G. 63.

PACIFIC MAIL STEAMSHIP CO.

Steerage Check.

Steamer: 'Mongolia.' Voy. 7.

Name: J. Kennedy.

From Yokohama to San Francisco.

No. Ticket: 9115.

A. E. RENNIE,

Purser."

GEORGE M. MORRISSEY, a witness for the libelant, sworn and examined in the city of Honolulu, before Walter B. Maling, a United States Commission for the District and Territory of Hawaii, on the 10th day of November, A. D. 1905, gave testimony as follows:

(Deposition of George M. Morrissey.)

Deposition of GEORGE M. MORRISSEY, taken under an order of Court dated November 4th, 1905, upon the application of libelant.

Direct Examination.

Mr. DAVIS.—Q. What is your name, Mr. Morrisey?

A. George M. Morrisey.

Q. Where do you reside?

A. In San Francisco.

Q. Of what country are you a citizen?

A. United States.

Q. United States of America? A. Yes, sir.

Q. Did you join the Steamship "Mongolia"?

A. No, sir.

Q. Didn't you join her at Yokohama?

A. I went aboard her as a passenger.

Q. On the "Mongolia"? A. Yes, sir.

Q. At Yokohama? A. Yes, sir.

Q. Did you have a ticket? A. Yes, sir.

Q. Who gave you the ticket?

A. The chief officer of the "Barracuda."

Q. To whom did you give that ticket?

A. To the purser.

Q. Of what? A. Of the "Mongolia."

Q. After you left Yokohama? A. Yes, sir.

Q. As passenger? A. Yes, sir.

(Deposition of George M. Morrissey.)

Q. Did you get anything—did he give you a check of any kind in exchange for the ticket?

A. Yes, sir.

Q. Did he give you anything when you gave him your ticket?

A. Yes, sir, a check or a receipt.

Q. Would you know it if you saw it again?

A. Yes, sir.

Q. Is that the check? (Showing.)

A. Yes, sir, that's the check.

Q. From whom did you receive that?

A. From the purser of the "Mongolia."

Q. On the voyage, after she left Yokohama?

A. Yes, sir.

(Mr. Davis here offered the check above referred to in evidence, and asked that it be marked Libelant's Exhibit No. 1. Allowed by the Commissioner). The said check is in the words and figures following, to wit:

"(2-1-05-3 M) S. G. 63.

PACIFIC MAIL STEAMSHIP CO.

Steerage Check.

Steamer: 'Mongolia.'

Name: G. H. Morrisey.

From Yokohama to San Francisco.

No. Ticket: 9114.

A. E. RENNIE,

Purser."

(Deposition of George M. Morrissey.)

Mr. DAVIS.—Q. You continued as passenger on board until you arrived here in Honolulu?

A. Yes, sir.

Q. When did you arrive; when did the "Mongolia" arrive?

A. She arrived here on the 27th, I think, of October, 1905.

Q. 27th of October, 1905? A. Yes, sir.

Q. Now, after she was moored, did you leave the vessel?

A. Yes, I left, after she was tied up.

Q. Where did you go? A. I went up town.

Q. Before you left the vessel in Honolulu did anybody try to prevent your going ashore?

A. No.

Q. Anybody say anything to you?

A. No, sir.

Q. What did you go ashore for?

A. I went up town, to see if I could see friends that I know here.

Q. To take a walk? A. Yes, sir.

Q. After you went up town did you go back to the wharf? A. Yes, sir.

Q. Who did you see there?

A. Well, I saw the watchman and the quartermaster of the "Mongolia."

Q. That was the same day? A. Yes, sir.

(Deposition of George M. Morrissey.)

Q. About what time?

A. About half-past five.

Q. Did you go aboard?

A. No, sir, they wouldn't let me.

Q. Why? A. They stopped me.

Q. Who stopped you?

A. The watchman and the quartermaster.

Q. Quartermaster of what?

A. Of the "Mongolia."

Q. What did he say?

A. He told me none of the "Barracuda's" crew was allowed aboard the ship.

Q. Did he say why?

A. Didn't tell me why.

Q. Did you go back that night?

A. I went back about 9 o'clock.

Q. Who was there then?

A. The quartermaster and another watchman.

Q. The quartermaster of the "Mongolia"?

A. Yes, sir.

Q. Did he allow you to go on board then?

A. No, sir.

Q. Did you try? A. Yes, sir.

Q. Who stopped you?

A. They stopped me.

Q. What did they say?

A. They told me to be there at 9 o'clock in the morning, and the doctor was to be down, and would

(Deposition of George M. Morrissey.)

let us aboard, so we got down, it must have been half-past 8 in the morning, and I tried to get in then, and they wouldn't let me in.

Q. Who wouldn't?

A. The people at the gate.

Q. Who were they?

A. The ship's quartermaster there.

Q. The "Mongolia's" quartermaster?

A. Yes, sir.

Q. What was said?

A. I asked him could I get aboard, and he said you will have to wait till the doctor comes, and I went and sat down and then went over again and asked him, and he said no; I stayed there till the ship went out.

Q. The ship sailed that day and you didn't get aboard? A. Yes, sir.

Q. Had you any clothes? A. Yes, sir.

Q. What became of those?

A. I have got some of them now.

Q. Where were they? A. On the dock.

Q. Some of them were missing? A. Yes.

Q. What?

A. Two suits of blue underwear and a shirt and two towels.

Q. What was the value of those articles?

A. Well, I guess the whole business amounted to about $9.00.

(Deposition of George M. Morrissey.)

Q. They are gone? A. Yes, sir.

Q. You have been compelled to stay here ever since the ship sailed? A. Yes, sir.

Q. Where are you boarding and lodging?

A. Boarding at the Palace Restaurant and lodging at the Sailors' Home.

Q. How much a day have you agreed to pay for board and lodging?

A. Meals cost six bits a day and lodging two bits.

Q. Have you agreed to pay it?

A. I didn't exactly agree to pay it.

Q. But you consider yourself bound to pay it?

A. Yes, sir.

Q. Who to? A. To Mr. Chillingworth.

Q. He gave you an order for your board and lodging? A. Yes, sir.

Q. Did he? A. Yes, sir.

Q. Why were you under obligations to Mr. Chillingworth?

A. Well, the reason is that I went to the agent's office; we told the agent that we was left off the "Mongolia," couldn't get aboard; he says, "Well, I can't help that," and he says, "I know all about it."

We says, "Who is going to pay for us while here?" and he said, "That is your own lookout." I said, "Well, here, Mr. Klebahn, I have got some money the company owes me; can't I draw some money?" and

(Deposition of George M. Morrissey.)

he said he had no orders. I was ashore here without a five cent piece; I didn't know where to sleep and what to do.

Q. Is that the reason you think Mr. Chillingworth should be paid? A. Yes, sir.

Q. You asked him to supply the board and lodging, did you not? A. Yes, sir.

Q. It costs you $1.00 a day? A. Yes, sir.

Q. Mr. Klebhan, the agent, refused to give you any money, and to supply you with board and lodging? A. Yes, sir.

Q. Have you a family in San Francisco?

A. I have got relatives.

Q. Father and mother? A. No, sir; sisters.

Q. You were going there for what purpose?

A. for living there until I could get another job, and get away again.

Q. I see that you claim $1,000 damages; do you consider that you would be compensated if you got $1,000 damages? A. Yes, sir.

Q. Do you consider you suffered $1,000 damages?

A. Yes, sir.

Q. In consequence of the breach of the contract by the Pacific Mail? A. Yes, sir.

Q. Where were you Friday night?

A. I walked the streets all night.

Q. I mean the Friday night you came off the steamer?

(Deposition of George M. Morrissey.)

A. That is the night I walked the streets.

Q. You had no place to sleep?

A. No, sir.

Q. Did you try to sleep?

A. I had no money.

Q. Did you try, did you lay anywhere on the streets?

A. I didn't lie down; I sat down.

Q. You were compelled to remain awake all night?

A. Yes, sir.

Q. Your destination was San Francisco?

A. Yes, sir.

Q. You had no intention of staying here?

A. No, sir.

Q. You were prevented from going by the quartermaster of the "Mongolia"? A. Yes, sir.

Cross-examination.

Mr. McCLANAHAN.—Q. You know now, do you not, why you couldn't get back on the ship?

A. Well, I don't exactly know; I have an idea.

Q. What is you idea?

A. Well, the idea is about some quarantine.

Q, You met the purser when you were ashore?

A. Yes, sir.

Q. He told you about this quarantine?

A. Yes, sir.

Q. Before that you had no knowledge of it?

(Deposition of George M. Morrissey.)

A. No, sir.

Q. When he told you you went to the ship?

A. Yes, sir.

Q. And were refused by the quartermaster?

A. Yes, sir.

Q. You knew him to be the quartermaster, did you? A. Yes.

Q. You had seen him often on the ship?

A. Not very often.

Q. Often enough to recognize him?

A. Well, the way I could tell him was by his uniform, the band on his hat.

Q. Was it the same man Friday afternoon that you met Friday night? A. I couldn't say.

Q. You personally talked to him?

A. Yes, sir.

Q. When you saw him Friday night you simply asked him to let you go on the ship; did you tell him you were one of the "Barracuda's" crew?

A. No, he knew it.

Q. So he told you you could not go on the ship, because he knew you were one of the "Barracuda's" crew? A. Something similar to that.

Q. Did he use the words "Barracuda's crew"?

A. Yes, sir.

Q. So he knew you were a member of the crew?

A. Yes, sir.

(Deposition of George M. Morrissey.)

Q. Now, was that first meeting with the quartermaster at 5 o'clock in the afternoon?

A. That was at 9 o'clock at night.

Q. Well, but at 5 o'clock in the afternoon he refused you permission to go on the ship?

A. Yes, sir.

Q. Did you tell him then anything about the quarantine you had heard of?

A. No, sir; I didn't know myself there was a quarantine, at 5 o'clock.

Q. I think you said you learned it from the purser?

A. The purser told me I'd better get down there as quickly as God would let me, and pray to God to get aboard. I didn't know of a quarantine.

Q. Were you under the purser's orders?

A. As a passenger on the ship, I was

Q. You knew the ship was not going to sail at 5 o'clock? A. Yes, sir.

Q. Why didn't you obey the purser?

A. I did obey him.

Q. Has the purser got any authority over the passengers on shore?

A. I don't know, sir; this is the first time I ever was a passenger on a long voyage. I have been working, and I don't talk with passengers; I have no time.

(Deposition of George M. Morrissey.)

Q. At 9 o'clock the quartermaster told you you couldn't go aboard the ship? A. Yes, sir.

Q. At 5 o'clock, did he tell you the same thing?

A. Yes, sir; at 5 o'clock the quartermaster told me I couldn't go aboard.

Q. Was it the same quartermaster at the gate the next morning?

A. I didn't pay much attention to him; all I did was to look at the hat, and saw that they were quartermasters of the "Mongolia."

Q. You shipped on a 9 months' voyage from San Francisco to Siberia and return? A. Yes, sir.

Q. And in Yokohama you drew money under those articles? A. Yes, sir.

Q. And got this ticket under those articles?

A. It was not read out to us.

Q. But they were obligated to return you to San Francisco? A. Yes, sir.

(The above, relating to articles, objected to by Mr. Davis, as no articles have been produced, and as not being proper cross-examination.)

Q. Do you consider that the "Barracuda" voyage is terminated?

A. Well, that is, my working part on the "Barracuda."

Q. But you were still drawing money?

A. Yes, until I get to San Francisco.

(Deposition of George M. Morrissey.)

Q. Did you ever receive from anyone, the offer, before the suit was brought, the offer of a return free passage on the "China," and payment of your keep while you were here?

A. Not before I seen Mr. Chillingworth

Q. Well, before the suit was brought?

A. Well, I don't know if the suit was brought or not.

Q. Didn't you sign any papers? A. Yes.

Q. What kind of papers?

A. Well, I signed a paper similar to that one on the desk.

Q. When did you see Mr. Klebhan first?

A. I seen him between 12 and 12:30 Saturday.

Q. You are sure of that?

A. Yes, sir; between 12 and 1.

Q. Who was with you when you went to the office?

A. Well, Mr. Iverson and Mr. Miller.

Q. They went inside? A. Yes, sir.

Q. Who stayed outside?

A. They all went in.

Q. Wasn't Murphy outside?

A. Well, he came up towards the office with us.

Q. And he stayed outside? A. Yes, sir.

Q. And Roe stayed outside? A. Yes, sir.

Q. Anyone else? A. Yes, Kennedy.

Q. You, and Iverson and Miller went inside?

(Deposition of George M. Morrissey.)

A. Yes, sir.

Q. That was on Saturday, between 12 and 1?

A. Yes, sir.

Q. Had you seen Chillingworth at that time?

A. No, sir.

Q. Was it after that on Saturday you saw Mr. Chillingworth?

A. After we seen the agent we saw Mr. Chillingworth.

Q. After you had received an offer for free passage on the "China," and your keep and board while here?

A. Yes, sir; we got an offer here last Saturday night.

Q. Well, irrespective of that, between last Saturday's offer, and the time you went to see Mr. Klebahn, on the 28th of October, did you receive another offer? A. I don't remember any other.

Q. Did you ever receive an offer of that character, offering transportation and your keep, from Mr. Davis, as coming from the steamship company?

A. I don't remember hearing any offer; the only one I remember was that Saturday night.

Q. Why didn't you accept that offer?

Q. Well, the reason was that Mr. Chillingworth kept me and fed me, and kept me here, and gave me everything necessary for life, and if it wasn't for Mr.

(Deposition of George M. Morrissey.)

Chillingworth I believe I would be starving, and I would have to go to the city authorities and ask for a place to eat and sleep; that is the reason I wanted to stay and give my evidence.

Q. You wanted to help Mr. Chillingworth?

A. I just wanted to give my evidence in the case, and show how the Pacific Mail treated us, and be fair to Mr. Chillingworth.

Q. Yes, and then go away and let Mr. Chillingworth have the fruits of your gains?

(Objected to by Mr. Davis as improper.)

A. No, sir.

Q. Well, what do you mean by treating Mr. Chillingworth fair?

A. Well, I mean to treat him just the same as he treated me; because if I got a job here I intended to go to work, and I could have drawn my money, and if I could I would have paid Mr. Chillingworth, and probably given him interest on it.

Q. You mean you are doing the fair thing by letting this suit go on; expecting to get damages and repay him? A. Yes, sir.

Q. Do you know whether he has really paid out money for you?

A. I don't know personally, but I know he gave us orders on his name that he is responsible.

Q. What Chillingworth do you mean?

(Deposition of George M. Morrissey.)

A. Charley F. Chillingworth.

Q. The young man? A. Yes, sir.

Q. Did you sign any paper with Mr. Chillingworth, in regard to this suit?

A. I have signed some papers for bringing the suit.

Q. I mean some paper by which you agreed to give him, give Mr. Chillingworth, some of the proceeds of this suit?

A. I signed an agreement for half.

Q. So if it had not been for your relations with Mr. Chillingworth you would really have gone on the "China"? A. Yes, sir.

Q. As a matter of fact, Miller has gone on the "China"? A. Yes, sir.

Q. You didn't think that a square deal to Chillingworth? A. No, sir.

Q. Have you tried to get work here?

A. Yes, sir.

Q. You have not been successful?

A. No, sir.

Q. One of the crew has been successful?

A. Yes, sir.

Q. Where did you get the two suits of blue underwear? A. I bought them.

Q. Where? A. San Francisco.

Q. How long ago?

(Deposition of George M. Morrissey.)

A. The day before we came out.

Q: What did you pay for them?

A. I paid $3.00 a suit.

Q. The shirt, did you buy it in San Francisco?

A. No, sir; I bought it in Seattle.

Q. How long ago?

A. I believe last October.

Q. You had worn it? A. Yes, sir.

Q. What did you pay for that?

A. Three dollars and fifty cents.

Q. Towels; where did you get those?

A. In San Francisco.

Q. How long have you had them?

A. Brand new when I got aboard the ship.

Q. You use them? A. I used one.

Q. How much did you pay for the towels?

A. I believe 25 cents apiece; I couldn't say for sure.

Q. What is the damage you have suffered, aside from losing these articles?

A. Well, the damages I suffered was, in the first place, I came ashore in good health and I had to sleep out all night, and I got a cold from it. Then I've got three sisters in San Francisco, and I notified them I would be on the "Mongolia," and I suppose they would be to meet me, and I disappointed them.

Q. You didn't go to see a doctor about this cold?

(Deposition of George M. Morrissey.)

A. No, sir.

Q. What other damage did you suffer?

A. Why, the way I am running around. I took more like a beggar than a workingman. Everybody on the street is looking at me, saying, "There goes a bum," or something like that.

Q. Did you hear anybody say that?

A. No, sir; but I can feel them looking at me in the daytime.

Q. Any other damage?

A. That is about all.

Q. With the exception of blue underwear, a shirt and towels, you have got all your clothes?

A. Yes, sir.

Q. You don't look any more like a bum that you did on the vessel, do you?

A. I got good clothes at home; I don't take them to sea, because they get spoiled.

Q. You were obligated, under these articles, for a nine months' cruise? A. Yes, sir.

Q. You count this as part of the cruise?

A. I don't exactly consider it that way.

Q. So far as you are concerned, you are going to draw money for it if you can? A. Yes, sir.

Q. What friends have you here?

A. I have a few friends.

Q. Who are they?

(Deposition of George M. Morrissey.)

A. Mostly seafaring men.

Q. Who are they?

A. A man here by the name of Monohan.

Q. Where does he live? A. I don't know.

Q. Have you seen him?

A. Yes, sir; and talked to him.

Q. When?

A. I talked to him night before last.

Q. Where did you see him?

A. On Fort street.

Q. You said you came ashore to see your friends?

A. Yes.

Q. What friends did you refer to?

A. I have quite a number, but I don't know their names; I know their faces.

Q. Did you ask some of these friends what to do, Friday night?

A. No, sir; I couldn't see none of them that night.

Q. Who came off the ship with you, Mr. Morrissey?

A. Mr. Iverson, and Kennedy and Murphy.

Q. How soon after she was docked, did you come off?

A. Why it must have been half an hour.

Q. Why didn't you come off before?

A. It is most generally customary to let the first-class passengers off first.

Q. How do you know?

(Deposition of George M. Morrissey.)

A. I saw they always did it.

Q. Where?

A. On all ships I have been on, especially on transports they keep the others back.

Q. Did anybody keep you back?

A. No, sir; I didn't try to go ashore with the first-class passengers.

Q. Where was the quartermaster, at the gangplank?

A. Well, there were two or three down there, about three, I believe, at the gangplank.

Q. Do you know the steerage steward?

A. Yes, sir.

Q. Did he know you? A. Yes, sir.

Q. Did you see him when you went off the ship?

A. No, sir.

Q. Did you hear anybody shout from the port hole? A. No, sir.

Q. Then, if you return to San Francisco, and get your pay under the shipping articles, you would call the thing square, wouldn't you?

A. Well, if they gave my attorneys their fee.

Q. As a matter of fact, the attorney's matter is the only thing still in the way of settlement, isn't it?

A. Well, no, not exactly. The reason was we left everything in the hands of our attorneys, and this is

(Deposition of George M. Morrissey.)

all we have got to do. We won't settle no case unless our attorneys tell us to.

Q. If they had settled with the attorneys, for their fees, that would have been satisfactory to you?

A. Yes, sir.

Q. You are willing to do that now?

A. Yes, sir.

Redirect Examination.

Q. You claim damages now that the suit has gone on, do you not?

(Objected to by Mr. McClanahan as improper redirect examination.)

A. Yes, sir; I claim damages.

Q. And expect to get them? A. Yes, sir.

Q. What do you mean by saying that if the attorney's fees are paid you are willing to let it go at that?

A. I mean we leave everything in the hands of our attorneys, and whatever our attorneys do we will stand by.

Q. You submit the matter to the professional honor of your counsel?

A. Yes, sir; and take orders from our counsel.

Q. And whatever damages you get, you expect to get them? A. Yes, sir.

Q. After you pay your attorneys?

A. Yes, sir.

(Deposition of Thomas Roe.)

THOMAS ROE, a witness for the libelant, sworn and examined in the city of Honolulu, before Walter B. Maling, a United States Commissioner for the District and Territory of Hawaii, on the 10th day of November, A. D. 1906, gave testimony as follows:

Deposition of THOMAS ROE, taken under an order of court dated November 4th, 1905, upon the application of libelant.

Direct Examination.

Mr. DAVIS.—Q. What is your name?

A. Thomas Roe.

Q. Of what country are you a citizen?

A. California, United States.

Q. You are a resident of where?

A. San Francisco.

Q. Did you join the steamship "Mongolia" as a passenger in the month of October?

A. Yes, sir.

Q. Where? A. In Yokohama.

Q. On what day? A. 18th of October.

Q. Did you have a ticket?

A. No, sir, we got our tickets when we went on board, from our first mate who issued us a ticket.

Q. He gave you a ticket? A. Yes, sir.

Q. What did you do with that ticket?

(Deposition of Thomas Roe.)

A. We gave it to the purser, who returned us another one.

Q. Is this the check he gave to you?

A. Yes, sir.

Q. Who was this check given to you by?

A. By the purser.

Q. Of what steamer?

A. Of the "Mongolia."

Q. Where? A. At sea, about two days out.

Q. After he had taken up your ticket he gave you this? A. Yes, sir.

Q. This name "S. Ros" (showing the witness a paper)—is that a mistake?

A. That is meant for me, sir.

Q. The words "S. Ros" is meant for Roe?

A. Yes, sir.

Q. And this is the check given to you in exchange for your ticket? A. Yes, sir.

Q. You had the ticket, you are sure of that?

A. Yes, sir.

(Mr. Davis here offered the above-mentioned check in evidence, and asked that it be marked Libelant's Exhibit No. 1. Allowed by the Commissioner). The said check is in the words and figures following:

(Deposition of Thomas Roe.)

"(2-1-05-3 M) S.G. 63

Pacific Mail Steamship Co.

Steerage Check.

Steamer: "Mongolia."

Name: S. Ros.

From Yokohama to San Francisco.

No. Ticket: 9118.

A. E. RENNIE,

Purser."

Q. You arrived in Honolulu when?

A. On the 27th of October.

Q. After the vessel was moored in Honolulu, did you come ashore? A. Yes, sir.

Q. What did you come ashore for?

A. Just to see the place and take some exercise.

Q. And when you started to go ashore off the "Mongolia" did anybody say anything to you?

A. No, sir, no one said a word.

Q. Did anybody tell you you couldn't go ashore?

A. No, sir.

Q. How long did you remain on shore, before you started to go back? A. About three hours.

Q. Did you go back to the ship the same afternoon?

A. The same afternoon, about 5 o'clock—ten minutes after five.

Q. When you got to the dock, who was there?

A. There was a quartermaster at the gate and two other watchmen.

(Deposition of Thomas Roe.)

Q. Quartermaster of what?

A. Of the "Mongolia."

Q. What is the reason you didn't go on the vessel? A. He refused me.

Q. Who?

A. The quartermaster; he told me to come around at 9 o'clock the next morning.

Q. He stopped you from going on the dock?

A. Yes, sir, wouldn't leave me on the dock at all.

Q. You are sure he was a quartermaster of the "Mongolia?" A. Yes, sir.

Q. Did you go back at 9 o'clock that night?

A. Yes, sir, and I was refused again.

Q. Did you apply to go on board?

A. Yes, sir.

Q. Who stopped you?

A. The quartermaster.

Q. Of what? A. Of the "Mongolia."

Q. Did you go back again the next morning?

A. Yes, sir, at 8 o'clock the next morning; he told us to go there and see the doctor.

Q. After you got there, did you go on board?

A. No, sir.

Q. Why? A. We were refused.

Q. By whom? A. The quartermaster.

Q. Of what? A. The "Mongolia."

Q. What did he say to you?

(Deposition of Thomas Roe.)

A. He told us to wait outside the dock, and see if we could see the doctor, but the doctor wasn't there.

Q. How many times did you try that morning?

A. Well, we tried twice.

Q. And were refused both times?

A. Yes, sir.

Q. Did you see the vessel sail away?

A. Yes, sir.

Q. On what day? A. On the 28th.

Q. Were you in good health?

A. Yes, sir.

Q. And sober? A. Yes, sir.

Q. What became of your clothes?

A. My clothes was aboard the ship.

Q. What became of them?

A. They was taken out and put on the dock.

Q. Did you get all your clothes?

A. Yes, sir, all but a shaving mug.

Q. What was the value of the shaving mug?

A. It was about two bits.

Q. Was that the only thing you missed?

A. That is the only thing I missed.

Q. That was missing from your baggage?

A. Yes, sir.

Q. You was destined on a voyage to San Francisco? A. Yes, sir.

(Deposition of Thomas Roe.)

Q. You wanted to get there as soon as you could?

A. Yes, sir.

Q. You have been compelled to stay here ever since? A. Yes, sir.

Q. Where are you boarding?

A. Palace Restaurant.

Q. Where are you sleeping?

A. At the Sailors' Home.

Q. Have you agreed to pay for your board and lodging? A. Yes, sir.

Q. How much?

A. According to how long we stay.

Q. How much a day?

A. About $1.00 a day.

Q. Who agreed to pay that for you—you know Mr. Chillingworth? A. Yes, sir.

Q. Did he give you an order for board and lodging? A. Yes, sir.

Q. And you were to repay him, were you?

A. Well, if we have any money.

Q. Well, as soon as you get the money you are going to pay the money to Mr. Chillingworth?

A. Yes, sir.

Q. You are under obligations to pay him?

A. Yes, sir.

Q. When you were prevented from going on the vessel you were without money?

(Deposition of Thomas Roe.)

A. Yes, sir.

Q. And had no money at all?

A. No, sir, not a cent.

Q. What did you do the Friday night you were off the vessel, did you have any place to go to?

A. No, sir, we walked the streets all night.

Q. You walked the streets all night?

A. Yes, sir.

Q. Did you go to the agents of the vessel and ask for money?

A. No, sir; Iverson and Morrissey and Miller went.

Q. You didn't get any money?

A. No, sir.

Q. You intend to go to San Francisco as soon as your evidence is taken in this case?

A. Yes.

Q. By the first steamer you can get away on?

A. Yes, sir.

Q. What were you intending to do after you got there?

A. I don't know; go to work if I can get it.

Q. And you have been compelled to stay here ever since that time? A. Yes, sir.

Q. You have named $1.000.00 damages in your libel; do you consider that would compensate you?

A. Yes, sir.

(Deposition of Thomas Roe.)

Q. You consider that would square things with you in consequence of this breach of contract?

A. Yes, sir.

Cross-examination.

Mr. McCLANAHAN.—Q. Why are you compelled to stay here?

A. We had to give our evidence in this case.

Q. That is the only thing that kept you?

A. No, sir, that ain't the only thing; we had to see if we could get our money to pay our board and our attorney.

Q. Mr. Davis is your attorney?

A. Mr. Davis and Mr. Chillingworth.

Q. You have a contract with Mr. Chillingworth, haven't you, to pay him fifty per cent of what you get out of this case? A. Yes, sir.

Q. Isn't it a matter of fact if the steamship company had paid your attorney a fee you would have gone on the "China?" A. Yes, sir.

Q. The company offered to give you free transportation on the "China" and your keep while here, but refused to pay attorney fees, is that it?

A. Yes, sir.

Q. You shipped on a nine months' voyage, from San Francisco to Siberia and return?

A. Yes, sir, to return to any part of the world, and signed on at San Francisco.

(Deposition of Thomas Roe.)

Q. When did you sign these articles?

A. On the 19th day of August.

Q. The ship was the "Barracuda," was it not?

A. The ship was the "Barracuda."

Q. And she was captured by the Japanese?

A. Yes, sir.

Q. And you were taken to Yokohama?

A. Yes, sir.

Q. There you were given money by the Pacific Mail agent, on account of your articles?

A. Yes, sir.

Q. And you received a ticket from your chief officer, that entitled you to passage from Yokohama to San Francisco? A. Yes, sir.

Q. Isn't it a matter of fact that if you had known of the quarantine regulations forbidding steerage passengers to leave the "Mongolia" you would not have left it?

A. No, sir, I would not have left it.

Q. So you left without any notice of this regulation? A. Yes, sir, no notice at all.

Q. How many of the steerage passengers left the steamship here in Honolulu?

A. There was ten, I believe, between ten and twelve that I know of.

Q. Nearly 100 were there not on the boat?

A. Well, I couldn't say, I never counted them.

(Deposition of Thomas Roe.)

Q. Well, quite a number?

A. Yes, quite a number.

Q. Well, how many of the crew of the "Barracuda," for instance, were on board?

A. Thirty-six or thirty-seven, sir.

Q. How many of the "Barracuda" crew left the ship?

A. There was about 8 or 9—8, I think; 8 or 9.

Q. If you were given transportation now on the Pacific Mail Steamship next leaving, and your keep were paid, and your attorneys satisfied, you would call it square, would you? A. Yes, sir.

Q. Did your attorney ever give you notice, before bringing this suit, that the steamship company would give you transportation on the "China" and pay your keep? A. No, sir.

Q. They did not? A. No, sir.

Q. Mr. Klebahn, the agent of the company, said that he would give you transportation on the "China," didn't he?

A. He never told me, sir.

Q. Well, didn't you hear that from Iverson and Miller and Morrisey?

A. They went to see him.

Q. He made them that offer, didn't he?

A. That is the statement they gave me, that he

(Deposition of Thomas Roe.)

made the offer to go on the "China" and told them he couldn't do nothing else for them.

Q. You people wanted money, didn't you, on your shipping articles?

A. Well, they wanted money on the contract, but he refused them that.

Q. You consider the steamship company still bound under these articles, don't you?

(Objected to by Mr. Davis, as not proper cross-examination.)

A. Yes, sir.

Q. So that when you reach San Francisco you will put in a claim for your wages?

A. Yes, sir.

Q. Your articles have not expired yet, that is the term of shipment? A. No, sir.

Q. They do not expire for several months?

A. No, sir.

Q. Will you now please state if there exists any damages that you have suffered by being here, except your board and lodging?

A. Well, I am left here without clothes and shoes.

Q. I think you said you got all your clothes?

A. I got all my clothes, but have got to pay for the washing of them.

(Deposition of Thomas Roe.)

Q. Well, the steamship company didn't wash them for you, did they?

A. No, sir, I had them already washed.

Q. Well, aside from your wash, was there, what other damages did you suffer?

A. My shoes are pretty near gone; guess I will be barefoot in another day.

Q. How long have you been in Honolulu?

A. Ten or eleven days.

Q. Have you worn out your shoes in ten or eleven days? A. Yes.

Q. Were they new shoes?

A. They wasn't old ones.

Q. What else have you suffered?

A. Well, I would be working in Frisco.

Q. You testified you didn't have any work there?

A. Well, I would have had a chance; now there are so many coming from Alaska there is no chance there.

Q. What other damages did you suffer?

A. That is all I suffered.

Redirect Examination.

Mr. DAVIS.—Q. When you were prevented from going on the "Mongolia" by this quartermaster how did you feel about it, was your feelings hurt?

(Objected to by Mr. McClanahan as improper redirect examination.)

(Deposition of Charles A. Miller.)

A. I felt kind of blue about it.

Q. You felt bad about it? A. Yes, sir.

Q. You expected to go on a voyage?

A. Yes, sir.

Q. And when prevented you felt injured?

A. Yes, sir.

CHARLES A. MILLER, a witness for the libelee, sworn and examined in the city of San Francisco, before James S. Manley, a United States Commissioner for the Northern District of California, on 5th day of December, 1905, gave testimony as follows:

Mr. HEGGERTY.—Q. 1. Mr. Miller, what is your occupation and place of residence?

A. Ship carpenter, and my place of residence is Second street, 422.

Q. 2. In San Francisco, California?

A. In San Francisco, California.

Q. 3. And you are a ship carpenter?

A. A carpenter.

Q. 4. Are you at present intending to leave on any ship or any voyage?

A. Not before after Christmas.

Q. 5. And then where do you expect to go?

A. I have no idea yet.

Q. 6. Were you one of the members of the crew of the steamship "Barracuda"? A. I was.

(Deposition of Charles A. Miller.)

Q. 7. At the time she was captured by the Japanese? A. Yes, sir.

Q. 8. Where was she captured?

A. Off Cape Elizabeth, off Saghalin Island.

Q. 9. What was the time of her capture?

A. The time of her capture was on the 16th of November, I believe it was—no, September.

Q. 10. September? A. Or October.

Q. 11. Of last year? A. No, this year.

Q. 12. 1905? A. 1905.

Q. 13. At that time what position did you occupy on the steamship "Barracuda"? A. Ship carpenter.

Q. 14. What was done with the crew of that vessel?

A. Well, there was nothing done to the crew, only the Japanese put a crew on board; of course, we had to work the vessel to Yokohama.

Q. 15. And then were you landed at Yokohama by the Japanese?

A. The Japanese had no more to do with us after we once landed.

Q. 16. In Yokohama?

A. They took us ashore and delivered us into the hands of the American Consul at Yokohama.

Q. 17. Was all the crew together delivered into the hands of the American Consul at Yokohama?

(Deposition of Charles A. Miller.)

A. All the crew was together, but the Pacific Mail Company took it in their hands to put us in a hotel—to put us all in different hotels.

Q. 18. At Yokohama? A. Yes, sir.

Mr. DAVIS.—Of course, Mr. Reporter, I wish to have it noted that I object to all of this evidence, and of course I need not object to each question. I reserve an objection on account of their immateriality; they are wholly irrelevant, immaterial and incompetent testimony, and objected to on those grounds. (Addressing counsel.) You will allow that to go against each question?

Mr. HEGGERTY.—Yes.

Q. 19. Now, then, how long did you remain in Yokohama, the crew of the "Barracuda"?

A. We was there about twenty or twenty-one days. We was there three weeks in fact.

Q. 20. And when did you leave Yokohama?

A. We left Yokohama on the leaving day of the "Mongolia." I can't hardly remember that day.

Q. 21. On the sailing day of the "Mongolia"?

A. Yes, sir.

Q. 22. That was the first arrival of the "Mongolia" after you were landed down there by the Japanese Government, was it? A. Yes, sir.

(Deposition of Charles A. Miller.)

Q. 23. On what voyage was she destined at the time you left on the "Mongolia" from Yokohama?

A. I do not understand.

Q. 24. To what point was the destination of the "Mongolia"?

A. The "Mongolia" destination was Honolulu and San Francisco.

Q. 25. Did all of the crew of the "Barracuda" board the "Mongolia"?

A. All of the crew, except the captain, the mate, the chief engineer, and first assistant engineer.

Q. 26. How did you come over on the "Mongolia," in the cabin or in the steerage?

A. Well, there was two engineers and two mates, first and second mate, and they were in the cabin, and the rest of us were all steerage.

Q. 27. Do you remember the occasion of the "Mongolia" reaching Honolulu? A. Yes, sir.

Q. 28. Do you remember the occasion of her being boarded by the quarantine officer?

Mr. DAVIS.—I object to that on the ground that it is leading.

Mr. HEGGERTY.—Q. 29. What recollection, if any, have you about any quarantine officers boarding the ship "Mongolia" before she reached the dock at Honolulu?

(Deposition of Charles A. Miller.)

Mr. DAVIS.—I object to that on the ground that it is leading and suggests an answer.

Mr. HEGGERTY.—Q. 30. Go right ahead and tell, please.

A. What I remember of it was, after the quarantine officers boarded her they said that there was sickness on shore.

Mr. DAVIS.—I object to that as incompetent, and move that the answer be stricken out.

A. (Continuing.) The word was passed around among our crew that nobody was supposed to go ashore because there was bubonic plague in Honolulu.

Mr. DAVIS.—I object to that and move it be stricken out on the ground that it was hearsay.

Mr. HEGGERTY.—Q. 31. Do you know by whom that word was passed around the crew?

A. By the chief officer of the "Mongolia" at the instigation of the captain.

Q. 32. And by any other officer or person belonging to the crew of the "Mongolia" was any word of that character passed around among the crew of the "Barracuda"?

Mr. DAVIS.—I object to that on the ground that it is not directed to these libelants.

(Deposition of Charles A. Miller.)

A. It was passed around by the steerage steward, who got his word from the captain.

Mr. HEGGERTY.—Q. 33. Of the "Mongolia"?

A. Of the "Mongolia."

Q. 34. Where was the crew of the "Barracuda" at the time the steerage steward passed that word around among them?

A. The steerage steward collected them all together in their quarters and told them not to go ashore because they would not be allowed on board again if they did.

Q. 35. Did he state why they would not be allowed on shore?

A. Yes, he stated that there was sickness on shore. He said that the quarantine officers would not allow anybody ashore.

Q. 36. Were there any other steerage passengers present at that time besides the crew of the "Barracuda."

A. Yes, sir; there were four outside of our crew, steerage passengers.

Q. 37. And do you know if all of the crew of the "Barracuda" at the time that steerage steward of the "Mongolia" passed the word around about going ashore, were present?

A. That I could not say, but every one as they passed over the gangway was told.

(Deposition of Charles A. Miller.)

Mr. DAVIS.—I object to that last and move that it be stricken out. He says that he does not know whether it was communicated to all of the crew of the "Barracuda."

Mr. HEGGERTY.—Q. 38. Did you go ashore at Honolulu?

A. I did not. When I hear that we were not allowed to go ashore at Honolulu—I was dressed up to go ashore already before we landed, before the ship was alongside of the wharf, and when I heard nobody was allowed to go ashore I stayed.

Mr. DAVIS.—I object to that on the ground that it was not communicated to these libelants, and also because there is no statement as to whether or not it was communicated to him by somebody who knew and had authority to make such statement.

Mr. HEGGERTY.—Q. 39. Do you know whether or not the ship "Mongolia" had reached the dock before this word was passed around by the steerage steward?

A. It was passed around before the ship reached the dock.

Q. 40. Did you see any of the steerage passengers going ashore off the "Mongolia"? A. Yes, sir.

Q. 41. Do you remember who they were that you saw going ashore?

(Deposition of Charles A. Miller.)

A. Oh, yes, I remember very well who they were.

Q. 42. Could you give their names?

A. One was Harry Baker.

Q. 43. And any other that you remember? Do you remember a John Kennedy?

A. John Kennedy, fireman, yes, sir.

Q. 44. Do you remember an Alfred Iverson?

A. Yes, I remember Alfred Iverson. He is in the city. He came with us yesterday.

Q. 45. Do you remember what his position was on the "Mongolia"? A. He was an oiler.

Q. 47. Thomas Roe? A. I remember him.

Q. 48. What was his position?

A. He was fireman—coal passer, I think. No, he was storekeeper.

Q. 49. And Patrick Murphy?

A. He was a coal-passer.

Q. 50. George M. Morrisey?

A. Coal-passer.

Q. 51. Did you see all those men go ashore?

A. I seen them all going ashore. I seen them all standing on the dock to get back.

Q. 52. Before they went ashore, did you see them going ashore?

A. I didn't see every one of them. I saw some of them going.

(Deposition of Charles A. Miller.)

Q. 53. Where were you standing at the time the different steerage passengers went ashore?

A. I was standing up on the top deck looking ashore. I was near the gangway where I could see every one going ashore.

Q. 54. Could you hear any conversation going on at the gangway?

A. Yes, sir; the steerage steward told them not to go ashore, and they told him that it was their business and that he had nothing to do with it.

Q. 55. Where was the steerage steward at the time that the steerage passengers told him that, Mr. Miller? Where was the steerage steward stationed?

A. The steerage steward was stationed at the gangway.

Q. 56. And you heard him telling them not to go ashore?

A. Yes, sir, I heard him telling them on several occasions.

Q. 57. Did you hear him telling them also, standing at the gangway? A. Yes, sir.

Q. 58. And what was their answer?

A. They told him that he could not stop them from going ashore.

Q. 59. Do you know whether or not there was any talk among the steerage passengers and the crew of the "Barracuda" after the word was passed that

(Deposition of Charles A. Miller.)

there was sickness ashore and that they should not go ashore?

Mr. DAVIS.—I object to that on the ground that it is not directed to these libelants, and they are not bound. It is immaterial.

A. Well, it came out about this when they heard that the cabin passengers were allowed to go ashore. They thought that they had a right to go ashore, too.

Mr. DAVIS.—I move that the answer be stricken out on the ground that he has no right to state what they thought.

Mr. HEGGERTY.—Q. 60. Did they say that?

A. They said that.

Q. 61. To whom did they make these remarks?

A. Amongst themselves.

Q. 62. There was considerable dissatisfaction, was there not? A. Yes, sir.

Q. 63. Between the members of the steerage, in which they said that there was discrimination between the cabin passengers and steerage passengers?

Mr. DAVIS.—I object to that on the ground that it is leading and suggests an answer.

A. There was.

Mr. HEGGERTY.—Q. 64. Did you see any of these steerage passengers afterward on the deck?

A. Yes, sir.

(Deposition of Charles A. Miller.)

Q. 65. When was it that you first saw them on the dock after they had left the boat?

A. After they had left the boat, they came back about five o'clock in the evening and I seen them on the dock trying to get in, and the gatekeeper would not let them come in.

Q. 66. Did you have any conversation with them from the boat while they were on the dock?

A. No, sir.

Q. 67. About how long before the ship docked was it, Mr. Miller, that the word was passed around by the steerage steward to the steerage passengers that they would not be permitted to go ashore?

A. The word was passed around while the ship was coming from the quarantine toward the dock.

Q. 68. And before she reached the dock?

A. Before she reached the dock the word was passed around.

Q. 69. Do you remember about what time the ship was docked?

A. The ship was docked between 11 and 12 o'clock.

Q. 70. Do you remember about what time the steerage passengers commenced to go ashore, those who went ashore?

A. They started to go ashore about 1 o'clock.

(Deposition of Charles A. Miller.)

Q. 71. Do you know whether or not the steerage passengers had lunch on board before any went ashore?

A. Yes, they did have lunch.

Q. 72. Did any go ashore before lunch?

A, That I cannot remember now, whether they did or not.

Q. 73. About what time was lunch that day?

A. 12 o'clock.

Q. 74. Do you know whether or not any other of the steerage passengers beside yourself had dressed themselves to go ashore before the ship reached the dock?

A. Well, you know, the fireman and coal-passers and sailors were living in a separate place from where I was living, and so I don't know whether they started in to dress themselves before that or not.

Q. 75. Are you acquainted with Mr. H. Jensen, who was a member of the crew of the "Barracuda"?

A. Yes, sir, he is here.

Q. 76. He is here now?

A. He just came along a little while ago.

Q. 77. Is he in town at present?

A. He is right here in court.

Q. 78. What position did he hold on the "Barracuda"? A. Quartermaster.

Q. 79. Did you hear any conversation between him and Mr. Iverson?

(Deposition of Charles A. Miller.)

A. Not that I remember of.

Q. 80. Would you state again, please, your best recollection of what was said by the steerage steward to the steerage passengers before the "Mongolia" reached her dock at Honolulu about going ashore?

A. I heard the steerage steward telling them—to two of the steerage passengers—he said—outside of the crew—I heard him tell them while they were present that they should not go ashore because they would not be allowed to come back again.

Mr. DAVIS.—I move that that be stricken out, what was said to two other persons, on the ground that it is irrelevant, immaterial and incompetent.

Mr. HEGGERTY.—Q. 81. Do you know whether or not these two steerage passengers went ashore?

A. They did.

Q. 82. What did you hear the steerage steward state generally to the other steerage passengers?

A. He stated to all the same thing, all over; he said that nobody was allowed to go ashore because they would not be allowed to come back aboard the ship again. He told that to everybody what I know of.

Q. 83. Did he say why they would not be allowed to come back? A. On account of the sickness.

(Deposition of Charles A. Miller.)

Mr. DAVIS.—I move that those answers be stricken out as general and there being no evidence that they were communicated and directed to these libelants.

Mr. HEGGERTY.—Q. 84. You remained on the "Mongolia," did you not, and came right on through to San Francisco? A. Yes, sir.

Q. 85. Together with the other members of the crew of the "Barracuda"?

A. Together with all those that stayed aboard.

Cross-examination.

Mr. DAVIS.—XQ. 1. You were in the employ of the Pacific Mail Steamship Company at that time?

A. Yes, sir.

XQ. 2. How long had you been employed by the Pacific Mail Steamship Company?

A. I had been in the employ of the Pacific Mail Steamship Company about three years before that.

XQ. 3. Are you still in their employ?

A. No, sir.

XQ. 4. When did you leave their employ?

A. I left their employ the day we signed clear articles of the "Barracuda."

XQ. 5. That was when, Mr. Miller, as near as you can give the date?

(Deposition of Charles A. Miller.)

A. (Addressing Mr. Heggerty.) Do you remember when the "Mongolia" arrived, that day when you were on board the ship?

Mr. HEGGERTY.—That was November 3d.

A. (Continuing.) It was November 6th that we signed clear articles.

XQ. 6. Was the "Barracuda" under the control of the Pacific Mail, or had she been chartered?

A. She had been chartered by Barneson, Hibberd & Co.

XQ. 7. They had the control of the vessel?

A. I don't know whether they had control. All I know is they had charge of the vessel, but the Pacific Mail Company manned the ship.

XQ. 8. But she was under charter, you know that? A. Yes, sir.

XQ. 9. Do you know Mr. Alfred Iverson, one of the libelants in this suit?

A. I know him, yes, sir.

XQ. 10. Did he have a ticket from Yokohama to San Francisco?

A. Oh, yes, he had a ticket.

XQ. 11. Where did he get that ticket?

A. He got the ticket from the Pacific Mail Steamship Company, in the Pacific Mail Steamship Company's office in Yokohama.

(Deposition of Charles A. Miller.)

XQ. 12. And when he came on board they collected that ticket?

A. They collected the ticket, but gave him another ticket instead.

XQ. 13. Gave him a check? A. Yes, sir.

XQ. 14. When the "Mongolia" arrived in Honolulu, did you see Mr. Iverson?

A. See Mr. Iverson on board the ship?

XQ. 15. Yes, when the vessel arrived in Honolulu.

A. I see him on board the ship just after we arrived.

XQ. 16. But when you arrived, did you see him?

A. When we arrived?

XQ. 17. Yes, when you arrived.

A. Yes, I saw him.

XQ. 18. Did you hear the steerage steward talking to Mr. Iverson?

A. Not to Mr. Iverson, directly.

XQ. 19. That is what I am asking you. At any time did you hear the steerage steward talking to Mr. Iverson thereafter?

A. Well, that I could not say.

XQ. 20. Did you see Mr. Iverson go ashore?

A. I see him on shore.

XQ. 21. On the dock? A. Yes sir

XQ. 22. Did you see him go off the dock?

A. I see him outside the gate.

(Deposition of Charles A. Miller.)

XQ. 23. Where? A. In Honolulu.

XQ. 24. What part?

A. Outside of the gate, the dock.

XQ. 25. That was the last you saw of him?

A. That was the last I saw of him.

XQ. 26. Do you know whether or not Mr. Iverson came back and tried to get on the dock again?

A. That I could not say; I saw him standing outside the dock, trying to get in.

XQ. 27. Was there a quartermaster stationed there, a quartermaster of the "Mongolia," together with the dock man?

A. Yes, sir; there was a quartermaster there.

XQ. 28. When the "Mongolia" arrived in Honolulu, were the steerage passengers scattered about the vessel?

A. Scattered about the vessel? No, they generally kept on the forward part of the vessel.

XQ. 29. Were they all together, or were they scattered about the vessel?

A. They were not scattered on her, so far as I could see them.

XQ. 30. Were they all collected in a bunch together?

A. Yes, sir; some of them stood forward, and some of them stood aft. They looked over the side, most all of them.

(Deposition of Charles A. Miller.)

XQ. 31. Did you follow the steerage steward around? A. No, sir; I did not.

XQ. 32. What he said to each one of those passengers, you are not able to state?

A. He collected them together.

XQ. 33. Are you able to state that you followed the steerage steward around and heard what he said to each one of them?

A. No, I did not follow him around.

XQ. 34. I will put the question direct to you: Did you hear the steerage steward tell that man Iverson not to go ashore?

A. No, that I could not say.

XQ. 35. Do you know whether or not Iverson, after he went on shore, came back to the dock, and applied to get on board the "Mongolia," and stated to the quartermaster and those in charge that he was ready to comply with the quarantine regulations?

A. No, I wasn't there. I couldn't say what he said on the dock, because I was not on the dock; I was on board the ship.

XQ. 36. Do you know whether or not there were other steerage passengers who had gone ashore who got admitted on board the steamer and came to San Francisco? A. I don't know of any.

XQ. 38. Will you state, to put the question again, that you do not know whether or not there were any

(Deposition of Charles A. Miller.)

steerage passengers who had gone ashore who came up on that "Mongolia"?

A. I don't know of any.

XQ. 39. Will you swear there were not?

A. Yes, sir.

XQ. 40. You will swear there were none?

A. I don't know of any.

XQ. 41. I ask you are you positive about it?

A. I am positive that I don't know it.

XQ. 42. Then you will not undertake to say that there were not? A. No, I will not.

XQ. 43. Have you talked about this to any person? A. No, sir.

XQ. 44. You have had no conversation with any official of the Pacific Mail Steamship Company?

A. Not at all.

XQ. 45. I suppose you had some conversation with my learned friend here? A. I have not.

XQ. 46. You have not seen him before?

A. I have not seen him since we arrived on the "Mongolia."

XQ. 47. He was aboard the vessel?

A. Yes, sir.

XQ. 48. And you had some conversation with him there? A. Yes, sir.

XQ. 49. You expect to go into the employ of the Pacific Mail Steamship Company, do you not, Mr. Miller?

(Deposition of Charles A. Miller.)

A. That I could not say. I will, if the company wants me.

XQ. 50. But you expect to go back into the employ of the Pacific Mail Steamship Company?

A. Expect? Certainly, if I get a job there first, I take it.

XQ. 51. Answer my question: Don't you expect to go back? A. I do.

XQ. 52. Then, the severing of your connection with the Pacific Mail Steamship Company is only temporary? A. Temporary, yes, sir.

XQ. 53. When do you expect to go back into the employ of the Pacific Mail Steamship Company?

A. That I could not tell you.

XQ. 54. But soon?

A. Soon? I don't know. I could not tell you when I go back there or whether I will.

XQ. 55. How soon you expect to go back?

A. I don't know.

XQ. 56. This month?

A. I might not go back there at all.

XQ. 57. I did not ask you that. You said that you expected to go back, did you not?

A. Yes, sir.

XQ. 58. Well, now, when?

A. I don't know.

XQ. 59. Soon?

(Deposition of Charles A. Miller.)

A. As soon as I get a job there. There are lots more besides me waiting for a job.

XQ. 60. But you expect to go back?

A. Well, yes.

XQ. 61. When you saw Iverson at the dock trying to get in—you say that you saw him at the dock trying to get in? A. Yes, sir.

XQ. 62. Was he sober at the time?

A. He certainly was.

XQ. 63. At the time? A. Yes, sir.

XQ. 64. Properly dressed and behaving himself?

A. Properly dressed and behaving himself in the proper manner.

XQ. 65. And you heard him ask for admission to the dock?

A. No, I didn't hear him because I was on the vessel.

XQ. 66. You were on the vessel?

A. Yes, and too far away to hear him.

XQ. 67. But you saw him? A. I saw him.

XQ. 68. You saw the first-class passengers go ashore off the "Mongolia"? A. Yes, sir.

XQ. 69. You saw them come back?

A. I saw them come back.

XQ. 70. They had gone up town?

A. Yes, sir.

XQ. 71. And they boarded the vessel?

(Deposition of Charles A. Miller.)

A. Yes, sir.

XQ. 72. And came on here to San Francisco?

A. Yes, sir.

XQ. 73. How many—do you know?

A. That I could not say. I suppose they were all ashore—a whole lot of them. I seen them all going.

XQ. 74. Do you know a captain that was on board as a steerage passenger, either he was a Norwegian or a Swede? A. He was a Norwegian.

XQ. 75. You knew that he came steerage?

A. Yes, sir.

XQ. 76. Did he come to San Francisco from Honolulu?

A. Not that trip. He came in the next boat. I know that.

XQ. 77. He went ashore?

A. He went ashore.

XQ. 78. He came on the Pacific Mail steamer?

A. He came on the "China."

XQ. 79. Do you know of any other steerage passenger, Mr. Miller?

A. There was a Scottish chief engineer there. He went ashore.

XQ. 80. And did he come up on the "Mongolia"?

A. No, sir.

XQ. 81. Do you know of any other steerage passenger that came up on the "Mongolia"?

(Deposition of Charles A. Miller.)

A. None of them steerage passengers came back on the "Mongolia."

XQ. 82. But you will not be positive about that?

A. I have not seen them. I did not see them after we left there.

XQ. 83. But you are not positive about that?

A. About what?

XQ. 84. Whether or not any steerage passengers went ashore and came back on the "Mongolia"?

A. I am positive about those four steerage passengers outside of our crew, that they did not come back on our ship.

XQ. 85. And steerage passengers?

A. I don't know of any.

XQ. 86. Are you positive that there are no steerage passengers that went ashore at Honolulu that came back on the "Mongolia"?

A. There were none there that came back.

XQ. 87. Will you swear there were none?

A. Yes, I will.

XQ. 88. Are you positive of that?

A. I don't know of them. That is the same question you asked me before.

XQ. 89. I will ask you again.

A. I answered you before that I don't know.

XQ. 90. Are you positive about it?

A. I am positive none of them that I knew came back.

(Deposition of Charles A. Miller.)

XQ. 91. But you will not be positive that none of the steerage passengers who went ashore came back and came on to San Francisco?

A. I don't know of any.

XQ. 92. Was any sickness on board the vessel after she left Honolulu? A. No, sir.

XQ. 93. The vessel had a clean bill of health?

A. Yes, sir.

XQ. 94. And passed the quarantine here?

A. Yes, sir.

XQ. 95. And came directly to the pier?

A. Yes, sir.

XQ. 96. She was not detained on account of sickness on board? A. No, sir.

XQ. 97. All the first-class passengers pretty nearly went ashore there at Honolulu?

A. Yes, sir.

XQ. 98. Do you know the purser of the "Mongolia"?

A. Oh, yes; I know him by sight, that is all. I am not acquainted with him.

XQ. 99. Do you know what he said to these men up town? A. I was not up town.

XQ. 100. No, I am asking you, I thought you might have heard what the purser said?

A. No, sir.

XQ. 101. You do not know? A. No, sir.

(Deposition of Charles A. Miller.)

XQ. 102. Do you know anything about the terms of the charter of the "Barracuda"?

A. No, sir.

XQ. 103. Did you get your money, your wages, that was coming to you? A. Yes, sir.

XQ. 104. When you arrived here in San Francisco? A. Up to the date of arrival.

XQ. 105. Who paid that, do you know?

A. The clerk from Barneson, Hibberd & Co.

XQ. 106. Those were the people who had charge of the "Barracuda"? A. Yes, sir.

XQ. 107. You did not get your money from the Pacific Mail Steamship Company? A. No, sir.

Redirect Examination.

Mr. HEGGERTY.—RQD. 1. I understand you to say that the reason you had dressed yourself before the ship came to her dock was to go ashore?

A. Yes, sir.

RQD. 2. And the reason you did not go ashore was because the word was given to you that steerage passengers would not be allowed to go ashore on account of sickness on shore, and, if they did, they would not be allowed to come back on the vessel?

A. Yes, sir.

RDQ. 3. And you wanted to go ashore, and did not go for that reason?

A. Yes, sir, I did not go ashore for that reason.

(Deposition of Harry Jensen.)

(It was stipulated by and between counsel for the respective parties that the testimony as to what was said to the witness by the steerage steward is objected to as not admissible as against these libelants on the ground that there is no evidence that what the steerage steward said to the witness was communicated to these libelants, or that they were in any way connected with it, and that this general objection applies to all the testimony given.)

HARRY JENSEN, a witness for the libelec, sworn and examined in the city of San Francisco, before James S. Manley, a United States Commissioner for the Northern District of California, on the 5th day of December, 1905, gave testimony as follows:

Mr. HEGGERTY.—Q. 1. Mr. Jensen, what is your occupation?

A. I am a seaman, and was quartermaster on the "Barracuda."

Q. 2. The ship that was captured by the Japanese?

A. Yes, sir.

Q. 3. And you were taken by the Japanese, with the other members of the crew, to Yokohama?

A. Yes, sir.

Q. 4. And there you remained until the "Mongolia" was about to sail from Yokohama?

A. Yes, sir.

(Deposition of Harry Jensen.)

Q. 5. And you came on, did you, with the other members of the "Barracuda's" crew, in the steerage of the "Mongolia," to Honolulu? A Yes, sir.

Q. 6. Before arriving at the dock at Honolulu, do you remember anything about the quarantine officials coming aboard?

A. No, I was asleep when they came aboard.

Q. 7. You were asleep when they came aboard?

A. Yes, sir; and when I woke up I wanted to go ashore with some others, so I passed over the gangway to go past the gate, and the quartermaster stopped me. He said, "You can't go ashore; if you go, you can't return to the ship."

Q. 8. Did he tell you why you could not go?

A. I asked him. I was pretty mad. I seen the rest of the men going ashore, and I wanted to go ashore, and I asked him why I could not go ashore, as well as the rest of the men who went ashore. He told me that it was orders from the quarantine doctors. "There is a black plague ashore here, and you can't go ashore." "Now," he says " if you go ashore, you have to take it all on your own responsibility."

Mr. DAVIS.—I move that answer be stricken out on the ground that it is irrelevant, immaterial and incompetent.

(Deposition of Harry Jensen.)

Mr. HEGGERTY.—Q. 9. And you did not go ashore? A. No, I didn't go ashore.

Q. 10. And it was because of the statements to you by the quartermaster that you would not be allowed back on the boat that you did not go on shore?

A. Yes, sir. I would not have cared much for that, if they would only allow me to go through the gates, but they would not let me pass.

Q. 11. And you came on from Honolulu on the "Mongolia" to San Francisco? A. Yes, sir.

Q. 12. Landing here on the landing of the ship?

A. Yes, sir.

Q. 13. Did you see any of the other steerage passengers going ashore at the same time, or about that time?

A. Well, I saw three when I was at the gate, foreigners, Paraquets, either Mexicans or Spaniards, they were.

Q. 14. And where were they standing?

A. They were standing right outside of the gate.

Q. 15. And do you know whether or not they came back on the boat? A. They came back aboard.

Q. 16. Do you know whether or not they went up town at all?

A. They went up town—I am sure of that—because they had packages that they bought up town.

Q. 17. What time of the day was it that you saw them at the gate?

(Deposition of Harry Jensen.)

A. About 3 or 4 o'clock, somewhere around there; I cannot say exactly.

Q. 18. Did you see any of the other steerage passengers going off the "Mongolia"?

A. I didn't see any going off, but I saw them coming back, and all the white men were refused, and I saw the other three come aboard.

Q. 19. That is, the three Mexicans?

A. Yes, sir.

Q. 20. Or Spaniards? A. Yes, sir.

Q. 21. Were there any other white men there at the time, wanting to get aboard?

A. Yes, sir; there was a man by the name of Baker. He was mess man on board the "Barracuda." He was standing outside of the gate.

Q. 22. Did he ask to come on board, do you know?

A. He didn't ask that I heard it, but I saw them standing right outside the gate.

Q. 23. Did you know who was at the gate at the time? A. The quartermaster.

Q. 24. The quartermaster, was it?

A. Yes, sir.

Q. 25. Any other man?

A. There was some immigration officers, but I don't know them.

(Deposition of Harry Jensen.)

Q. 26. And you don't know whether it was the immigration officers or the quartermaster that refused to allow them to come through?

A. I think it was the quartermaster, because he had his orders and he had to carry them out.

Q. 27. But you do not know that it was the quartermaster that refused them?

A. I know the quartermaster refused to allow me to go out, and that is my conclusion.

Q. 28. Were there any other members of the "Barracuda's" crew there at the time?

A. No, I was all alone.

Q. 29. Did you see any other of the "Barracuda's" men on board after you were refused?

A. Yes, sir.

Q. 30. Did you have any talk with them about why? A. Yes, sir.

Q. 31. What was the general trend of the conversation?

A. They said all the steerage passengers were stopped on account of the black plague. So I said, "Why can the first-class passengers go ashore, and they refuse the steerage passengers? I cannot see why we are any lower than they are."

Q. 32. That was the general discussion among the steerage passengers?

A. Yes, sir; that was the general discussion.

(Deposition of Harry Jensen.)

Q. 33. And, you say, when the ship came to her dock, you were asleep? A. Yes, sir.

Q. 34. About what time of the day was it that you tried to go ashore?

A. About 3 or 4 o'clock.

Q. 35. Did you have lunch that day on the boat?

A. I think I did. I can't remember that now, whether I slept then or not. That is a thing I would not swear to. I can't remember.

Q. 36. But you were in your bunk asleep when she passed quarantine and came up to the dock?

A. Yes, sir.

Q. 37. So that you personally did not hear the steerage quartermaster notifying the steerage passengers before she docked?

A. I didn't hear nothing,

Q. 38. And the reason why you did not was because you were asleep in your bunk?

A. Yes, sir. I had a headache. Every time I get close to the land I get a headache, and I went to bed on account of that and feli asleep.

Q. 39. And did not wake up, I suppose—

A. (Interrupting.) Until the ship was docked and discharging, when I woke up.

Q. 40. And that is all you know about it?

A. That is all I know.

(Deposition of Harry Jensen.)

Cross-examination.

Mr. DAVIS.—XQ. 1. The steerage steward said nothing to you about not going ashore?

A. Not a thing.

XQ. 2. I mean the steerage steward, he said nothing to you? A. He said nothing to me.

XQ. 3. You did not see him before you went to the gangway?

A. Yes, sir; I saw him around the steerage.

XQ. 4. Did he say anything to you about going ashore then? A. Not a word.

XQ. 5. Then you passed off the vessel, down the gangway, on to the dock before anybody said anything to you about not going ashore?

A. Yes, sir.

XQ. 6. And up to the entrance?

A. Yes, sir.

XQ. 7. Are you sure that the steerage steward saw you before you went off the vessel?

A. I ain't sure that he did not see me, but I passed him.

XQ. 8. Where was he then?

A. Just outside the steerage.

XQ. 9. How close were you to him?

A. I think I was closer to him than I am to you now.

XQ. 10. What was he doing then?

(Deposition of Harry Jensen.)

A. He was going forward, and I was coming aft.

XQ. 11. He was not a foot away from you?

A. He could not be that much because there was a narrow way there and I pressed against him.

XQ. 12. He could not help but see you?

A. He couldn't help but see me if he wanted to see me.

XQ. 13. You are positive that three of those passengers that went ashore were steerage passengers?

A. Yes, sir.

XQ. 14. You saw them on shore?

A. Yes, sir.

XQ. 15. You saw them come back on the vessel?

A. Yes, sir. There are two right here now in the waiting room.

Redirect Examination.

Mr HEGGERTY.—RDQ. 1. But when you got down to the gate after getting on the dock and off the ship, you found a quartermaster of the "Mongolia" and an immigration officer?

A. Yes, sir.

RDQ. 2. At the gate, and they refused to allow you to go through?

A. The quartermaster refused, but the immigration officer did not say a word to me. The quartermaster told me I could not go.

(Deposition of Harry Jensen.)

RDQ. 3. And you were very angry and indignant? A. Yes, sir.

RDQ. 4. Over the fact, as you said, that cabin passengers were allowed to go ashore and you were not? A. Yes, sir.

Recross-examination.

Mr. DAVIS.—RXQ. 1. There was no sickness on the vessel?

A. No, no sickness to my knowledge, only a Chinaman died between Yokohama and Honolulu.

RXQ. 2. Otherwise there was no sickness on her?

A. No, sir.

RXQ. 3. What steamer did you come to San Francisco on? A. On the "Mongolia."

RXQ. 4. You were paid off her in San Francisco? A. Yes, sir.

RXQ. 5. The same as Miller?

A. Yes, sir.

RXQ. 6. By these people?

A. Well I don't know who paid me, except the shipping commissioner, he gave me the money.

RXQ. 7. You got your money?

A. Yes, sir.

Further Redirect Examination.

Mr. HEGGERTY.—RDQ. 5. You were paid by the shipping commissioner?

A. Yes, sir.

(Deposition of Harry Jensen.)

RDQ. 6. At the Mail Dock? A. Yes, sir.

RDQ. 7. Where the "Mongolia" was lying at the time? A. Yes, sir.

RDG. 8. Did you see the other members of the "Barracuda's" crew being paid at the same time?

A. Yes, sir.

RDQ. 9. By the same person, the shipping commissioner? A. Yes, sir.

RDQ. 10. Including Mr. Miller?

A. They were all there. The commissioner handed the money over to me. That is all I know.

RDQ. 11. That was in San Francisco, on the Pacific Mail Dock? A. Yes, sir.

Further Recross-examination.

Mr. DAVIS.—RXQ. 8. Who provided the money, you do not know and cannot tell?

A. I can't tell.

RXQ. 9. Simply the commissioner handed you the money? A. Yes, sir.

RXQ. 10. Who provided the money, you don't know? A. I don't know.

(It was stipulated by and between counsel for the respective parties that the testimony as to what was said to the witness by the steerage steward is objected to as not admissible as against these libelants, on the ground that there is no evidence that what the steerage steward said to the witness was com-

(Deposition of J. Ramo.)

municated to these libelants, or that they were in any way connected with it, and that this general objection applies to all the testimony given.)

J. RAMO, a witness for the libelee, sworn and examined in the city of San Francisco, before James L. Manley, a United States Commissioner for the Northern District of California, on the 5th day of December, 1905, gave testimony as follows:

Mr. HEGGERTY.—Q. 1. Mr. Ramo, what is your business?

A. I am a "Barracuda" coal passer.

Q. 2. You were on board the "Barracuda" when she was captured by the Japanese, were you?

A. Yes, sir.

Q. 3. And taken with the other members of the crew to Yokohama? A. Yes, sir.

Q. 4. And you remained in Yokohama with the other memebers of the "Barracuda's" crew until you went on board the "Mongolia" for San Francisco?

A. Yes, sir.

Q. 5. When you got to Honolulu, were you allowed to land, to go on shore?

A. On board the ship the "Mongolia," before the ship came alongside the dock, the steward said "Nobody goes ashore because he has not got permission."

(Deposition of J. Ramo.)

Mr. DAVIS.—I object to that, and move that that answer be stricken out on the ground that it is not material.

Mr. HEGGERTY.—Q. 6. Were there any other members of the "Barracuda's" crew with you at the time?

A. No, sir, I was in my bunk. The steward told me nobody was allowed to go ashore; that they could not come aboard again.

Q. 7. Did you go ashore?

A. No, I didn't go ashore.

Q. 8. Did you want to go ashore?

A. No, I didn't want to go ashore, but the steerage steward said "Nobody goes ashore"; that is what he told me.

Q. Do you know whether the steward was going through the steerage telling that to the steerage passengers, the same thing?

A. I did not see that.

Q. 10. You were in your bunk, were you?

A. Yes, sir.

Q. 11. Where were the other steerage passengers at the time you were in your bunk?

A. My part was separate from the passengers, because the "Barracuda's" crew was on one side and the passengers on the other side.

(Deposition of J. Ramo.)

Q. 12. Were you a coal-passer on the "Barracuda"? A. Yes, sir.

Q. 13. And then you were over with the "Barracuda's" crew on one side of the ship?

A. Yes, sir.

Q. 14. And the other steerage passengers were on the other side? A. Yes, sir.

Q. 16. When the steerage steward told you that you had no permission to go ashore, did you see him going and telling any of the others?

A. Yes, sir, I saw him on deck tell the other fellows, "No go ashore."

Cross-examination.

Mr. DAVIS.—XQ. 1. Did you see him tell this man not to go ashore (indicating Mr. Iverson)?

A. No, sir.

XQ. 2. That is Iverson? A. Yes, sir.

XQ. 3. This man's name is Iverson. You did not hear him tell Iverson not to go ashore?

A. No, I did not see him.

XQ. 4. You did not hear him tell Patrick Murphy not to go ashore, did you? A. No, sir.

XQ. 5. You did not hear him tell Thomas Roe not to go ashore? A. No, sir.

XQ. 6. You did not hear him tell John Kennedy not to go ashore? A. No, sir.

XQ. 7. Nor George M. Morrisey?

(Deposition of J. Ramo.)

A. No, sir.

XQ. 8. All you know is what he said to you?

A. Yes, because when I come from Yokohama I have rheumatism in my foot.

XQ. 9. You did not follow him around because you had rheumatism in your foot?

A. Yes, sir, that is so.

XQ. 10. You did not follow the steerage steward around to hear what he said to other people; you only heard what he said to you?

A. Yes, sir.

XQ. 11. You were in your stateroom?

A. Yes, sir.

XQ. 12. And what he said to the other steerage passengers, you do not know? A. No, sir.

Redirect Examination.

Mr. HEGGERTY.—RDQ. 1. Did you hear the steerage steward calling that out, "Steerage passengers not to go ashore"?

A. I did not hear it.

RDQ. 2. You heard him tell the crew of the "Barracuda" not to go ashore? A. Yes, sir.

Mr. DAVIS.—I object to that on the ground that the question is leading, and move that the answer be stricken out on that ground.

Mr. HEGGERTY.—RDQ. 3. The crew of the "Barracuda," they were on one side of the steer-

(Deposition of J. Ramo.)

age, and the other steerage passengers were they on the other side? A. Yes, sir.

RDQ. 4. The steerage steward was going through the steerage where the "Barracuda" passengers were when you heard him say that you could not go ashore?

A. Yes, sir, the "Barracuda" crew, I heard that.

RDQ. 5. You heard him say the "Barracuda" crew was not to go ashore? A. Yes, sir.

RDQ. 6. And do you know whether that was before the ship came up to the dock?

A. Yes, sir.

Recross-examination.

Mr. DAVIS.—RXQ. 1. Where were you at the time he said this? In your bunk?

A. In my bunk, in my place, asleep.

RXQ. 2. Was your door shut?

A. No door. I was in my bunk.

RXQ. 3. Did you see that man when he sung that out?

A. When they came alongside, every man come out to look.

RXQ. 4. Did you see Iverson at the time the steward sung that out? A. No, sir.

RXQ. 5. And you did not see any of the other libelants that I have named?

A. No, because I was in my bunk.

(Deposition of T. De La Torre.)

(It was stipulated by and between counsel for the respective parties that the testimony as to what was said to the witness by the steerage steward is objected to as not admissible as against these libelants, on the ground that there is no evidence that what the steerage steward said to the witness was communicated to these libelants, or that they were in any way connected with it, and that this general objection applies to all the testimony taken.)

T. DE LA TORRE, a witness for the libelee, sworn and examined in the city of San Francisco, before James L. Manley, a United States Commissioner for the Northern District of California, on the 5th day of December, 1905, gave testimony as follows:

Mr. HEGGERTY.—Q. 1. What is your business?

A. Coal-passer.

Q. 2. Where do you live at present?

A. Me live? My house?

Q. 3. Yes, where do you live at present?

A. Brannan street, 268.

Q. 4. Were you a member of the crew of the "Barracuda"?

A. No, sir. I don't remember all the people. I remember a few people.

Q. 5. Were you on the "Barracuda?"

A. Yes, sir, me on the "Barracuda."

(Deposition of T. De La Torre.)

Q. 6. You were a coal-passer on the "Barracuda"? A. Yes, sir.

Q. 7. You were captured by the Japanese?

A. Yes, sir.

Q. 8. Taken to Yokohama?

A. Yes, sir.

Q. 9. And then left Yokohama on the "Mongolia"? A. Yes, sir.

Q. 10. Do you remember the quarantine officers coming on board the ship before the "Mongolia" reached the dock at Honolulu? A. Yes, sir.

Q. 11. Did you know the steerage steward of the "Mongolia"? A. Yes, sir.

Q. 12. Do you know whether or not the steerage steward said anything to you and the other members of the crew of the "Barracuda" on the "Mongolia" before she came to the dock?

A. Yes, sir, he told me "Nobody can go ashore. The captain don't allow anybody to go ashore. Anyone go ashore, not allowed any more on the ship."

Q. 13. Did he say why?

A. I think he said they got sick on shore.

Mr. DAVIS.—I object to that, and move that the answer to it be stricken out because they are not connected with the libelants in this suit.

(Deposition of T. De La Torre.)

Mr. HEGGERTY.—Q. 14. Were there any other members of the "Barracuda" present when he said that?

A. I think there were two more men of the crew, but I forget the men. How many men come on the ship, I don't know.

Q. 15. Where was it he said this? Where was it on the ship that the steerage steward told you this?

A. On the forward side, in the place where they sleep.

Q. 16. Were you in your bunk at the time?

A. No, I sit down outside on the deck.

Q. 17. Were you on the deck when he told you?

A. Yes, sir.

Q. 18. Were any other of the crew of the "Barracuda" there on the deck at the time?

A. I think one more men, or two more men, but I don't know who the men are; I forget it.

Q. 19. Did you see the steerage steward go around the deck to any others there?

A. Yes, sir, he told it to a few men of the "Barracuda," some "Barracuda" men forward, some aft, and some around the ship and he went around telling that the captain said this and that, but I don't know anything about the orders; I don't know where these come from.

(Deposition of T. De La Torre.)

Q. 20. Did you want to go ashore at Honolulu?

A. Me?

Q. 21. Yes. A. No, sir.

Q. 22. Did you see any of the members of the "Barracuda's" crew going ashore?

A. I don't know, sir. I don't know whether any man go ashore, but I think six or seven men go ashore.

Mr. DAVIS.—I object to what he thinks, and move that it be stricken out.

Mr. HEGGERTY.—Q. 23. You did not see them?

A. No, sir.

Cross-examination.

Mr. DAVIS.—XQ. 1. Did you see Mr. Iverson there when the steward told you not to go ashore?

XQ. 2. Did you see Mr. Murphy?

A. No, sir.

XQ. 3. Mr. Kennedy? A. No, sir.

XQ. 4. Mr. Roe? A. No, sir.

XQ. 5. Nor Mr. Morrissey?

A. No, sir, that fellow did not come with me at that time.

XQ. 6. You did not see Iverson?

A. No, sir.

XQ. 7. Murphy? A. No, sir.

XQ. 8. Kennedy? A. No, sir.

(Deposition of T. De La Torre.)

XQ. 9. Morrissey? A. No, sir.

XQ. 10. Nor Roe? A. No, sir.

XQ. 11. You do not know whether or not the steerage steward said anything to them?

A. No, sir, I don't know.

XQ. 12. All you know is what he said to you?

A. All I know is what he said to me; that is all, sir.

XQ. 13. And he came around to where you were sleeping? A. Yes, sir.

XQ. 14. Or were you on deck?

A. Yes, sir, not very far away from the place where I sleep.

XQ. 15. He told you not to go ashore?

A. Yes, sir, he told me not to go ashore.

XQ. 16. Is that all he said?

A. He said, "Every man go ashore not allowed any more on the ship. They have black plague or some other kind of sickness in Honolulu."

XQ. 17. Did he say that? A. Yes, sir.

XQ. 18. Who was present within hearing at that time? Was Iverson? A. No, sir.

XQ. 19. Nor any of these people that I have mentioned? A. No, sir.

Redirect Examination.

Mr. HEGGERTY.—RDQ. 1. He told you this before the ship came to the dock? A. Yes, sir.

(Deposition of Francisco Guardado.)

(It was stipulated by and between counsel for the respective parties that the testimony as to what was said to the witness by the steerage steward is objected to as not admissible against these libelants, on the ground that there is no evidence that what the steerage steward said to the witness was communicated to these libelants, or that they were in any way connected with it, and that this general objection applies to all of the testimony.)

FRANCISCO GUARDADO, a witness for the libelee, sworn and examined in the city of San Francisco, before James L. Manley, a United States Commissioner for the Northern District of California, on the 5th day of December, 1905, gave testimony as follows:

Mr. HEGGERTY.—Q. 1. You are a sailor, are you?

A. No, sir, a boatswain.

Q. 2. On the "Barracuda"? A. Yes, sir.

Q. 3. When she was captured by the Japanese?

A. Yes, sir.

Q. 4. And you were taken by the Japanese with the other members of the crew to Yokohama?

A. Yes, sir.

Q. 5. And left Yokohama for San Francisco on the "Mongolia." A. Yes, sir.

(Deposition of Francisco Guardado.)

Q. 6. Before the "Mongolia" reached Honolulu dock, did you hear anything said as to whether the steerage passengers could go ashore?

Mr. DAVIS.—I object to that question on the ground that it is leading and suggests an answer; and further, that it is immaterial unless the libelants are connected with it.

Mr. HEGGERTY.—Q. 7. Did you?

A. The steward said then that nobody can go ashore.

Q. 8. That was the steerage steward of the "Mongolia"? A. Yes, sir.

Q. 9. That was before the ship reached the dock?

A. Before we come into the dock, yes, sir.

Q. 10. Whom did he tell that to?

A. The steward told me and a couple of my friends.

Q. 11. Was that down in the steerage or on deck?

A. On deck, near the quarters of the crew of the "Barracuda."

Q. 12. Did you want to go on shore?

A. Me?

Q. 13. Yes.

A. No, I no go ashore; I didn't want to go ashore.

Q. 14. Did you see any members of the crew of the "Barracuda" going ashore?

A. I don't see.

(Deposition of Francisco Guardado.)

Q. 15. Were there any other members of the "Barracuda's" crew near you when the steward told you that?

A. He told me and a couple of friends, Spanish men, on the deck, and telling not go ashore.

Q. 16. That is all you know about it, is it?

A. Yes, sir.

Q. 17. Do you live in San Francisco?

A. Yes, sir, I live in San Francisco. I work on the ship that runs down to Panama.

Q. 18. That runs from San Francisco to Panama?

A. Yes, sir.

Q. 19. You were paid off by the shipping commissioner, were you, here?

A. I paid off here in San Francisco.

Q. 20. By the shipping commissioner?

A. Yes, sir.

Q. 21. Down at the Pacific Mail dock?

A. Yes, sir.

Q. 22. With the other members of the "Barracuda's" crew? A. Yes, sir.

Cross-examination.

Mr. DAVIS.—XQ. 1. Did you see Mr. Iverson there at the time the steward told you that?

A. No, sir.

XQ. 2. Did you see Patrick Murphy at the time the steerage steward told you that?

(Deposition of Francisco Guardado.)

A. Murphy?

XQ. 3. Yes.

A. He belong to the "Barracuda's" crew?

XQ. 4. Yes.

A. No, sir.

XQ. 5. Were there any other members of the "Barracuda's" crew present?

A. Me and my two friends.

XQ. 6. There were no other of the "Barracuda's" crew there at the time the steward told you that? A. No, sir.

XQ. 7. You do not know whether the steward told them or not? A. No, sir.

(It was stipulated by and between counsel for the respective parties that the testimony as to what was said to the witness by the steerage steward is objected to as not admissible as against these libelants, on the ground that there is no evidence that what the steerage steward said to the witness was communicated to these libelants, or that they were in any way connected with it, and that this general objection applies to all the testimony given.)

LOUIS ALONZO, a witness for the libelee, sworn and examined in the city of San Francisco, before James L. Manley, a United States Commissioner for the Northern District of California, on the 5th day of December, 1905, gave testimony as follows:

(Deposition of Louis Alonzo.)

(The testimony of this witness was given through a duly qualified interpreter.)

Mr. HEGGERTY.—Q. 1. Mr. Alonzo, you were a member of the crew of the "Barracuda"?

A. Yes, sir.

Q. 2. And you were captured by the Japanese and taken to Yokohama? A. Yes, sir.

Q. 3. And you came from Yokohama on the "Mongolia" to San Francisco? A. Yes, sir.

Q. 4. Before the "Mongolia" reached the dock at Honolulu, did anybody say anything about the steerage passengers going ashore?

A. At the time they tied the ship alongside the dock, I was sick and lay up in the bunk, and after I hear somebody say "Nobody can go ashore in Honolulu."

Q. 5. And you came on the "Mongolia" to San Francisco? A. Yes, sir.

Cross-examination.

Mr. DAVIS.—XQ. 1. Who was it that said, not to go ashore?

A. The steward.

XQ. 2. Did he say it in English?

A. The steward didn't tell it to me himself, but I heard him say it to somebody else.

XQ. 3. Who it was, you do not know?

A. No, sir.

(Deposition of Louis Alonzo.)

XQ. 4. Do you understand English?

A. No, I don't understand English. The steward tell it in Spanish. He didn't tell it to me, but somebody else.

XQ. 5. And you heard it? A. Yes, sir.

XQ. 6. But he didn't say it to you?

A. No; I was sick and laid up in my bunk.

Redirect Examination.

Mr. HEGGERTY.—RDQ. 1. Do you live in San Francisco?

A. Yes, sir.

RDQ. 2. And you are a sailor?

A. Yes, sir.

RDQ. 3. What position did you occupy on the "Barracuda"? A. A sailor.

(It was stipulated by and between counsel for the respective parties that the testimony as to what was said to the witness by the steerage steward is objected to as not admissible as against these libelants, on the ground that there is no evidence that what the steerage steward said to the witness was communicated to these libelants, or that they were in any way connected with it, and that this general objection applies to all the testimony given.)

EDWARD ROSAS, a witness for the libelee, sworn and examined in the city of San Francisco, before James L. Manley, a United States Commis-

(Deposition of Edward Rosas.)

sioner for the Northern District of California, on the 5th day of December, 1905, gave testimony as follows:

(The testimony of this witness was given through a duly qualified interpreter.)

Mr. HEGGERTY.—Q. 1. What is your business? A. Sailor, a sailing man.

Q. 2. A member of the "Barracuda" crew?

A. Yes, sir.

Q. 3. What did you do on the "Barracuda"?

A. A quartermaster.

Q. 4. On the "Barracuda"? A. Yes, sir.

Q. 5. Captured by the Japanese?

A. Yes, sir.

Q. 6. Taken to Yokohama? A. Yes, sir.

Q. 7. And left Yokohama for San Francisco on the "Mongolia"? A. Yes, sir.

Q. 8. Before the "Mongolia" reached the wharf at Honolulu, did anybody tell you that the steerage passengers could not go on shore?

A. Yes, sir, the steward told me.

Q. 9. The steerage steward of the "Mongolia"?

A. Yes, sir.

Q. 10. Where did he tell you that?

A. I was up on the deck.

Q. 11. Any other "Barracuda" crew present?

(Deposition of Edward Rosas.)

A. I and the boatswain of the "Barracuda" were present.

Q. 12. Do you live in San Francisco?

A. Yes, sir.

Q. 13. And you are a sailor? A. Yes, sir.

Q. 14. You did not go ashore? A. No, sir.

Q. 15. And came to San Francisco on the "Mongolia"? A. Yes, sir.

Cross-examination.

Mr. DAVIS.—XQ. 1. In what language did he tell you not to go ashore?

A. The steward—the steerage steward?

XQ. 2. In what language did this steward tell you this? Did he use the Spanish language?

A. No, in English.

XQ. 3. Did you see Mr. Iverson present, this man here (indicating), when the steward told you that?

A. No, because I was up on deck.

XQ. 4. And you did not see Patrick Murphy present? A. No, sir.

XQ. 5. John Kennedy? A. I don't know.

XQ. 6. Did you see John Kennedy present? Was John Kennedy there when he said that to you, not to go ashore? A. No, sir.

XQ. 7. Nor Morrissey nor Roe?

A. No, I was on deck and didn't see nobody.

(Deposition of Domingo Martinez.)

XQ. 8. Nobody but yourself? A. No, sir.

XQ. 9. You did not see any of the rest of the "Barracuda" crew when he said that?

A. No, I didn't see any one else.

XQ. 10. Did you see any of the rest of the "Barracuda's" crew present except the boatswain?

A. That is all I see.

(It was stipulated by and between counsel for the respective parties that the testimony as to what was said to the witness by the steerage steward is objected to as not admissible as against these libelants, on the ground that there is no evidence that what the steerage steward said to the witness was communicated to these libelants, or that they were in any way connected with it, and this general objection applies to all the testimony given.)

DOMINGO MARTINEZ, a witness for the libelee, sworn and examined in the city of San Francisco, before James L. Manley, a United States Commissioner for the Northern District of California, on the 5th day of December, 1905, gave testimony as follows:

Mr. HEGGERTY.—Q. 1. You are a sailor, Mr. Martinez? A. No, sir, a fireman.

Q. 2. Member of the crew of the "Barracuda"?

A. Yes, sir.

(Deposition of Domingo Martinez.)

Q. 3. And you were captured by the Japanese and taken to Yokohama? A. Yes, sir.

Q. 4. And left Yokohama on the "Mongolia" for San Francisco? A. Yes, sir.

Q. 5. Before the "Mongolia" reached the wharf at Honolulu, did anybody say "Steerage passengers cannot go on shore"?

A. The steward told me and a friend of mine not to go ashore. The steward says "No go ashore."

Mr. DAVIS.—I move that be stricken out on the ground that it is hearsay and not in the presence of any of the officers and secondary evidence.

Mr. HEGGERTY.—Q. 6. Is that all you know?

A. That is all I know. So much.

Q. 7. You came on the "Mongolia" to San Francisco? A. Yes, sir.

Cross-examination.

Mr. DAVIS.—XQ. 1. The steerage steward did not tell you not to go ashore?

A. No, the steward did not tell me because I could not speak English. He told Alfred Byrne, and he told me.

XQ. 2. The steward did not tell you?

A. No, he told Byrne.

(It was stipulated by and between counsel for the respective parties that the testimony as to what was

(Deposition of Joseph Medina.)

said to the witness by the steerage steward is objected to as not admissible as against these libelants, on the ground that there is no evidence that what the steerage steward said to the witness was communicated to these libelants, or that they were in any way connected with it, and that this general objection applies to all the testimony given.)

JOSEPH MEDINA, a witness for the libelee, sworn and examined in the city of San Francisco, before James L. Manley, a United States Commissioner for the Northern District of California, on the 5th day of December, 1905, gave testimony as follows:

(The testimony of this witness was given through a duly qualified witness.)

Mr. HEGGERTY.—Q. 1. Where do you live?

A. 202 Brannan Street.

Q. 2. You were a sailor on board the "Barracuda"? A. Messboy.

Q. 3. And captured by the Japanese and taken to Yokohama, and left Yokohama on the "Mongolia" for San Francisco?

Mr. DAVIS.—I object to that question on the ground that it is leading.

A. Yes, sir, I was a member of the crew of the "Barracuda."

(Deposition of Joseph Medina.)

Mr. HEGGERTY.—Q. 4. What position did you hold on the "Barracuda"? A. Messboy.

Q. 5. Captured by the Japanese and taken to Yokohama? A. Yes, sir.

Q. 6. Did you leave Yokohama on the "Mongolia" for San Francisco? A. Yes, sir.

Q. 7. Before the "Mongolia" reached the wharf at Honolulu, did anybody tell you "Steerage passengers not allowed to go ashore"?

Mr. DAVIS.—I object to that on the ground that the libelants have not been connected.

A. Yes, sir.

Mr. HEGGERTY.—Q. 8. Who told you that?

A. The steerage steward.

Q. 9. The steerage steward of the "Mongolia"?

A. Yes, sir.

Q. 10. Where did he tell you that—what part of the ship? A. On deck.

Q. 11. That was before the ship reached the wharf? A. Yes, sir.

Q. 12. Any other "Barracuda's" men there at the time? A. Yes, sir, my partner, a Mexican.

Q. 13. What was his name?

A. I don't know—my partner. I don't know his name.

Q. 14. And any other? A. No, sir.

(Deposition of Joseph Medina.)

Q. 15. You came on to San Francisco on the "Mongolia"? A. Yes, sir.

Cross-examination.

Mr. DAVIS.—XQ. 1. Did he tell you in English or Spanish? A. Me? A Mexican?

XQ. 2. Did he speak Spanish, not to go on ashore, or did he speak in English?

A. The steward?

XQ. 3. The steward. A. In English.

XQ. 4. You understood him? A. What?

XQ. 5. Did you understand what the steward said to you? A. No, sir.

XQ. 6. Did you see that man present, Iverson (pointing)? A. No, sir.

XQ. 7. Did you see Patrick Murphy present?

A. No, sir.

XQ. 8. John Kennedy? A. No, sir.

XQ. 9. Thomas Roe? A. No, sir.

XQ. 10. Nor Morrissey? A. No, sir.

XQ. 11. Did you not see any of the "'Barracuda's" crew except you and your friend?

A. No, my friend, my Mexican friend.

XQ. 12. Just you and your partner were standing alone? A. Yes, sir.

XQ. 13. When the steward said something to you?

(Deposition of Joseph Medina.)

A. Yes, sir, before the ship goes on dock he said "You can't go ashore."

XQ. 14. What else did he say? He said something else, did he not?

A. I don't know nothing more.

XQ. 15. Then, all he said was "Don't go ashore"?

A. Yes, sir.

XQ. 16. He did not say anything else?

A. No, sir.

XQ. 17. Had the ship been moored at this time? Was she tied at the dock?

A. Before they came alongside he told that.

XQ. 18. Before they came to the wharf?

A. Yes, sir.

XQ. 19. How long before? Where was the vessel when that was said?

A. I didn't keep a watch, and I didn't keep the time, but it was before they came alongside.

XQ. 20. Were you also a steerage passenger on the "Mongolia" on that trip?

A. I was a passenger, a steerage passenger.

XQ. 21. Did you go on ashore?

A. No, sir.

XQ. 22. Were you on the dock? A. No, sir.

XQ. 23. Were you not up in a barber shop on King Street in Honolulu? A. No, sir.

XQ. 24. You didn't go ashore? A. No, sir.

(Deposition of Joseph Medina.)

XQ. 25. Did you go ashore and get a shave?

A. No, sir.

XQ. 26. Never left the vessel? A. No, sir.

XQ. 27. Stayed on the vessel all the time she was in Honolulu? A. I was on board all the time.

Redirect Examination.

Mr. HEGGERTY.—RDQ. 1. Did anybody talk to you in Spanish and tell you you could not go ashore?

A. A Spanish man said, "Don't go ashore. The steward said no go ashore," but I don't know who the Spanish man was.

(It was stipulated by and between counsel for the respective parties that the testimony as to what was said to the witness by the steerage steward is objected to as not admissible as against these libelants, on the ground that there is no evidence that what the steerage steward said to the witness was communicated to these libelants, or that they were in any way connected with it, and that this general objection applies to all the testimony given.)

JOSE FERNANDEZ, a witness for the libelee, sworn and examined in the city of San Francisco, before James L. Manley, a United States Commissioner for the Northern District of California, on the 7th day of December, 1905, gave testimony as follows:

(Deposition of Jose Fernandez.)

(The testimony of this witness was given through a duly qualified interpreter.)

Mr. HEGGERTY.—Q. 1. Are you a sailor?

A. No, sir, a fireman.

Q. 2. On board the "Barracuda"?

A. The "Barracuda."

Q. 3. Were you on board the "Barracuda" when she was captured by the Japanese?

A. Yes, sir.

Q. 4. And were you taken with the rest of the crew to Yokohama? A. Yes, sir.

Q. 5. What ship did you leave Yokohama on?

A. The "Mongolia."

Q. 6. And did you come on through from Yokohama to San Francisco on the "Mongolia"?

A. Yes, sir.

Q. 7. Do you live in San Francisco at the present time; do you live here at the present time?

A. Yes, sir.

Q. 8. Do you know anything about any quarantine officers coming on the "Mongolia" before Honolulu was reached?

A. Before the ship reached the mooring the steward told me "No go ashore."

Q. 9. Were any other "Barracuda" men with you at that time? A. No, sir, only myself.

(Deposition of Jose Fernandez.)

Q. 10. Where were you standing on the ship at that time? A. On deck.

Q. 11. Did you want to go ashore at Honolulu?

A. No, sir.

Q. 12. Was it the steerage steward of the "Mongolia" that told you not to go ashore?

A. Yes, sir.

Q. 13. And you say that was before the ship reached the dock, the wharf?

A. Yes, sir, before it reached the wharf.

Q. 14. About how long before?

A. Twenty minutes.

Q. 15. You were paid off by the shipping commissioner when you arrived in San Francisco, were you?

A. Yes, sir.

Mr. HEGGERTY.—That is all.

Mr. DAVIS.—No questions.

(It was stipulated by and between counsel for the respective parties that the testimony as to what was said to the witness by the steerage steward is objected to as not admissible as against these libelants, on the ground that there is no evidence that what the steerage steward said to the witness was communicated to these libelants, or that they were in any way connected with it, and that this general objection applies to all the testimony given."

(Deposition of A. E. Rennie.)

A. E. RENNIE, a witness for the libelee, sworn and examined in the city of Honolulu, before Walter B. Maling, a United States Commissioner for the District and Territory of Hawaii, on the 22d day of October, A. D. 1905, gave testimony as follows:

Deposition of A. E. RENNIE, taken under an order of Court dated November 17th, 1905, upon the application of libelee.

Direct Examination.

Mr. COOPER.—Q. Your name is?

A. Albert Edward Rennie.

Q. What is your occupation?

A. Purser on the "Mongolia."

Q. How long have you been occupying that position? A. Since April, 1904.

Q. Were you the purser on the "Mongolia" then, on Voyage 7 from Yokohama to San Francisco?

A. Yes, sir.

Q. About what date did you leave Yokohama, if you remember?

A. I think about the 16th of October; I don't remember just exactly what day.

Q. About what time did you arrive in Honolulu?

A. I think it was the 25th of October; we left Yokohama Bay, I remember, a day late.

(Deposition of A. E. Rennie.)

Q. When you left Yokohama who did you have in the steerage; I will ask you if you had the crew of the Steamship "Barracuda"? A. Yes, sir.

Q. What part of the ship did they occupy?

A. They occupied the steerage.

Q. On your arrival at the port of Honolulu, were you put under any orders from the Marine Hospital Service?

(Objected to by Mr. Davis, as immaterial irrelevant and incompetent, and not proper evidence at this time.)

A. Yes, sir.

Q. What orders were you subjected to, and from whom?

A. The doctor, in charge of the medical inspection—

(Objected to by Mr. Davis, on the ground that there is no evidence to connect it with the libelant in this action, and no evidence to show that such order was ever communicated to said libelant.)

The WITNESS (Continuing).—He gave us orders that none of the passengers except the cabin, and none of the crew, except the heads of departments, should be allowed ashore.

Q. Where was this communicated to you?

A. Out at the quarantine grounds, as we call it, outside the reef, on board the "Mongolia."

(Deposition of A. E. Rennie.)

Q. Who was present when this order was given?

A. Mr. Klebhan, our agent was there.

Q. Did you know who the officer was, representing the Marine Hospital Service? A. Yes, sir.

Q. What was his name?

A. By George! It has gone.

Q. Well, if you can't remember we will pass the question. We can easily prove who it was.

A. It is the tall gentleman there, with the light colored hair; I cannot remember it just now.

Q. Was anyone else present, besides Mr. Klebhan, this officer and yourself?

A. Not that I know of.

Q. What steps did you take to put this order in force on that ship?

(Objected to by Mr. Davis, as incompetent, irrelevant and immaterial, unless it is shown that it was communicated to these libelants.)

A. I sent for the steerage steward and told him to notify all the steerage passengers—

(Objected to by Mr. Davis, as hearsay.)

The WITNESS (Continuing). —that none of them could go on shore and told him to see that it was strictly carried out, and I wrote to the chief officer to tell him that none of his department could go except himself, and I saw the chief engineer, and told him the same, and the chief steward, and told him the same.

(Deposition of A. E. Rennie.)

Q. You did that in accordance with instructions given you by the Marine Hospital doctor?

A. Yes.

Q. Did you take any other steps to enforce this order, than you have stated?

A. I couldn't say that I did; not that I remember of now.

Q. How long after you had taken these measures did you arrive at the dock?

A. Oh, it must have been about half an hour; maybe a little more or a little less.

Q. Did you, yourself, personally, give any order to the steerage passengers?

A. I didn't at that time; I did later in the evening. Some of the men on board came to see me about it.

Q. State the circumstances of your meeting with the steerage passengers that had gone ashore.

A. Oh, the passengers that had gone ashore—I thought you referred to those on the ship. I left the ship, I think, a little after four o'clock, and came up town to our office and went in to the office; then I walked up the street and I saw five or six men standing on the corner, and I recognized one of them as being one of the members of the crew of the "Barracuda." I went over and asked them if they belonged to the crew of the "Barracuda" that had

(Deposition of A. E. Rennie.)

been on board the "Mongolia," and they answered that they were; I told them they had got us into a nice mess, that the doctors had given the order that they were not to go on shore, and they had disobeyed it, and now the doctors said that unless they went back on the wharf, and were back by five o'clock, and went over and got fumigated next day, they wouldn't be allowed to go on the ship to San Francisco.

Q. How was that order communicated to you?

A. While on board the ship, as soon as we found out these men had gone on shore, Mr. Klebhan came down there and we notified him, and he immediately went back on the wharf and telephoned to Dr. Hobdy, the head of the Marine Hospital Service—

(Objected to by Mr. Davis.)

The WITNESS (Continuing). —and Mr. Klebhan came back and informed us —

(Objected to by Mr. Davis.)

The WITNESS (Continuing). —that if these men were back on the wharf by five o'clock, and then sent over to the station and fumigated, they would be allowed to go to San Francisco.

Q. That was what you referred to when you spoke to these men? A. Yes.

Q. What did they say?

(Deposition of A. E. Rennie.)

A. They began to use bad language; they had as much right ashore as I had, or the cabin passengers had. I believe I told them something about not being clear of the ship's articles, if they were left here they would be so at their own expense while in Honolulu, and would probably have to pay their expenses to San Francisco, and I told them to go back to the wharf, as Dr. Hobdy wanted them to.

Q. Did you know any of these men by name?

A. No, sir. There were about thirty altogether, and I used to see them around the decks, and say "Good morning," and that, and take up their tickets.

Q. Was that the conclusion of your conversation, or was anything else said?

A. They began to use rough language; and I said "You know all about it now" and I walked off. "I won't talk the matter over with you any more."

Q. Did you see these men again?

A. I am not sure, but I don't think so.

Q. Can you state how many there were that you spoke to?

A. I think that in the crowd that was standing on the corner there were six of them, but I couldn't say they were all men from the "Barracuda"; it was twelve men that we left here altogether, and whether these six were all "Barracuda" men or not I couldn't say. But I remember there were six of them, stand-

(Deposition of A. E. Rennie.)

ing together. I said to a man I was with that there was six of them, and I would go over and speak to them.

Q. If it had not been for the order communicated to you by the officer of the Marine Hospital Service, would these men have been received aboard the ship?

(Objected to by Mr. Davis, as calling for the conclusion of the witness, to the form of the question, and to the answer, on the ground that it would be a conclusion of the witness, and as immaterial, irrelevant and incompetent. Question withdrawn.)

Q. What would have been the result of these steerage passengers leaving the ship, had it not been for the order of the Quarantine Officer?

(Objected to by Mr. Davis on the same grounds as above.)

A. We would have taken them on board the ship, and taken them to San Francisco. Oh, that doctor's name is Doctor Sinclair.

Q. Do you know whether or not any of these men conformed to your suggestion of reporting to the dock, at five o'clock, for the purpose of submitting to the quarantine regulations? A. No, sir.

Q. Do you know whether or not any one of the men passengers, the steerage passengers, came back?

A. There was one man, but I couldn't say he was one of these six; there was one man came down and

(Deposition of A. E. Rennie.)

went over to the Quarantine Station and was fumigated, and went up as a passenger to San Francisco.

Q. Was he a man who had been ashore?

A. Yes, one of the crew of the "Barracuda."

Cross-examination.

Mr. DAVIS.—Q. You don't know whether these men went back there at five o'clock or not?

A. Not of my own knowledge.

Q. Do you know whether Iverson went back or not, the libelant in this suit?

A. No, I do not.

Q. You didn't hear the steerage steward communicate to these plaintiffs the fact that they were not to go on shore, did you?

A. No, sir.

Q. They have testified that they received no such instructions or orders from the steerage steward; you would not deny that, so far as you are concerned?

A. Yes, I certainly would.

Q. I mean of your own knowledge you didn't hear such instructions given; did you hear the steerage steward instruct Iverson, this man here (pointing to Alfred Iverson), that he was not to go on shore? A. No, I did not.

(Deposition of A. E. Rennie.)

Q. Then, of your own knowledge, you do not know whether or not such instructions were communicated to these libelants?

A. No.

Q. How many steerage passengers came off of your vessel, do you know, while she was here; was there ten? A. No, more than that.

Q. How many altogether?

A. I think altogether there was thirteen of them got up town here.

Q. How many did you carry off to San Francisco, of the thirteen, on your return trip?

A. One.

Q. Only took one? A. Yes.

Q. Twelve remained here in Honolulu?

A. I think twelve; not twelve of the "Barracuda's" crew, but twelve altogether.

Q. Was there no steerage passenger who had come off the vessel who got back and was not fumigated? A. Not that I know of.

Q. You testify to that?

A. I testify that to my knowledge there was no man who came up town and got back and was taken on the ship without being fumigated. There were a number of Indians there, who came out on the wharf, and we drove them back as soon as we saw them.

(Deposition of A. E. Rennie.)

Q. But are you positive that none of them that came up town did not get back on the vessel without being fumigated first?

A. To the best of my knowledge and belief I am positive they did not.

Q. It wasn't part of your duty, Mr. Rennie, to watch the steerage passengers, was it?

A. Not just when we are coming alongside of the wharf, no.

Q. And you didn't, as a matter of fact, watch them? A. No, sir.

Q. And how many came off the boat and went up town, and came back, you don't know?

A. Yes, I do know.

Q. You went up town, Mr. Rennie?

A. Yes.

Q. And how long were you gone?

A. I left at four o'clock, and was back about half past six.

Q. You were gone two hours and a half?

A. Yes, sir.

Q. How many of the steerage passengers went off of that vessel during the two hours and a half you don't know, isn't that a fact?

A. Yes, I know.

Q. As a matter of fact, being gone two hours and a half from that vessel, how many of these steerage

(Deposition of A. E. Rennie.)

passengers came off the vessel, went up town, and went back to her, before you got back, you don't know, of your own knowledge?

A. Well, when I was up town I don't know; but when I went back I questioned the men on watch and they said nobody had gone off the vessel.

Q. Well you couldn't tell how many went off and got back?

A. I could tell as well as any man could tell anything, by an employee's word.

A. I mean of your own knowledge, of your own personal knowledge, derived from your personal observation?

A. Well, from my personal knowledge I couldn't tell how many came off that ship.

Redirect Examination.

Mr. COOPER.—Q. After the ship left Honolulu, did you find how many were missing?

A. Yes, sir.

Q. And how many?

A. Twelve missing.

Q. And can you recall the names of any of the twelve who were missing?

A. I can't recall them all; a man named Wallace, a Norwegian from Shanghai; a man named Schmitz, from Nagasaki; a Scotchman named Robinson, from Hongkong.

(Deposition of A. E. Rennie.)

Q. Were these three men members of the crew of the "Barracuda"?

A. No, none of them were members of the crew of the "Barracuda." No, I can't remember any more now. An hour from now I could sit down and probably write down the whole six of them; of course this man Iverson (indicating Alfred Iverson) was one.

Q. Do you remember how many of the twelve were members of the crew of the "Barracuda"?

A. I think it was six of them. I remember the other men better than I can the crew of the "Barracuda," because there was about thirty of the crew of the "Barracuda," and of course the other men came on further. There was either five or six of the "Barracuda," but this thing happened a month ago.

Q. And were there any other or different orders given, concerning the refusal of the steerage passengers going on board, than as you have already testified; were any other orders given?

A. Were any other orders given?

Q. Yes, or modifications of orders?

A. You mean by me?

Q. Yes; what I mean is, were there any other orders than you have already testified to, about their not going on board the ship, and about what you

(Deposition of A. E. Rennie.)

said to the men on Fort Street; were any other orders, or modifications of orders, given concerning the refusal of the ship to take these passengers on board the ship?

A. You mean taking these men on board that went uptown? Not to my knowledge.

Recross-examination.

Mr. DAVIS.—Q. This "Barracuda" that you speak of having the articles on board the vessel, she was seized by the Japanese Government, was she not? A. Yes.

Q. For having had on board a cargo of salt, which was considered to be a contraband of war?

A. I don't know about that.

Q. Well, she was seized by the Japanese Government? A. Yes.

Q. That is the reason why these people were going home, was it not?

(Objected to by Mr. Cooper, as being irrelevant and immaterial.)

A. I can't answer that of my own knowledge.

Q. You know, as a matter of fact, that she was seized?

A. That is a matter of hearsay with me.

Q. It is a matter of common knowledge, was it not, in Japan? A. Yes.

Q. And you were there at the time?

(Deposition of A. E. Rennie.)

A. We were in Japan.

Q. Well, did you see the "Barracuda" in Japan?

A. I couldn't positively state that; she was down at Ukoska, I think; we don't go within ten miles of that.

Q. You know she was seized by the Government?

A. Well, it was a matter of common hearsay.

Here followed the reading of the depositions of the following witnesses, previously taken in Honolulu on behalf of the libelee, in the order named: Charles Trome, W. Isaac, Max Thorschmidt.

Mr. McClanahan here submitted the case of the libelee.

I hereby certify that the foregoing is a full, true and correct transcript of the proceedings had and testimony taken on the trial of the above-entitled cause, as transcribed from my stenographic notes on the trial thereof.

_____,

Official Stenographer.

CHARLES TROME, a witness for the libelee, sworn and examined in the city of Honolulu, before Walter B. Maling, a United States Commissioner for the District and Territory of Hawaii, on the 22d day of October, A. D. 1905, gave testimony as follows:

(Deposition of Charles Trome.)

Deposition of CHARLES TROME, taken under an order of Court dated November 17th, 1905, upon the application of libelee.

Direct Examination.

Mr. COOPER.—Q. Mr. Trome, were you steerage steward on board the Steamship "Mongolia" on her arrival in the port of Honolulu, last October?

A. Yes, sir.

Q. On your arrival off the port of Honolulu what happened on board the ship?

A. We went through quarantine, and after that I got orders from the purser to tell the European steerage that nobody was allowed to go ashore, and if they would go ashore they couldn't come back on the ship.

Q. Acting under that order, what did you do?

A. I went to the steerage passengers, and told them the orders I got from the purser.

Q. How generally did you go among the steerage passengers?

A. Well, they wasn't satisfied, they commenced to talk to each other that they couldn't go ashore.

Q. State just exactly what you did and what was said?

A. I told them just exactly where was a trouble, that they wasn't allowed to go ashore, and if they did,

(Deposition of Charles Trome.)

they wouldn't get back; I told them they had sickness in Honolulu.

Q. What happened after that?

A. After that I went to the gangway, and stayed there to see that nobody did go ashore.

Q. Where was the ship when you went to the gangway?

A. Oh, the ship was at the quarantine station before this. I went to the gangway and stayed there till she docked.

Q. Then what steps did you take?

A. I went to the foot of the gangway, and waited for some of the men to come down, the steerage passengers.

Q. Did some of the steerage passengers come down?

A. About half an hour afterwards I seen the first bunch coming off. I told them they couldn't go ashore. They said they would.

Q. Who was present?

A. The quartermaster on the gangway.

Q. What is his name? A. Crosby.

Q. Who else, speaking now of the officers of the "Mongolia"?

A. Well, there was a few around; I couldn't tell you exactly who it was, I didn't pay much attention.

(Deposition of Charles Trome.)

Q. Do you know who the passengers were you had this conversation with on the gangway?

A. Yes, some of the white crew of the "Barracuda."

Q. Did you know anybody by name?

A. I don't remember their names.

Q. You know them by sight? A. Yes.

Q. Was this man here (pointing to Alfred Iverson) one of them?

A. I seen him in the middle of the gangway, and I told him he could not come ashore; he said he would come ashore and I couldn't stop him.

Q. What else happened after this, that you have just testified to?

A. I went up to the purser's office and told him the passengers went ashore and they wouldn't listen to me.

Q. How many went ashore at that time?

A. There was about six, about ten.

Q. Do you know whether or not any of those ten afterwards went to San Francisco?

A. No, sir.

Q. Were there any other steerage passengers who left the ship besides these ten?

A. Yes, sir, two more of the passengers.

Q. Did the two passengers, who left after these ten, go to San Francisco?

(Deposition of Charles Trome.)

A. No, sir, they were left in Honolulu.

Q. Were there any other of the steerage passengers left in Honolulu, other than the ten you first spoke of and the two who went afterwards?

A. Not that I know of.

Q. Do you know anything about a steerage passenger who went ashore and was afterwards taken to San Francisco?

A. No, sir, nobody that I know of.

Q. Did you hear, in the presence of this man who went ashore, this man whom you identified, Mr. Iverson, the quartermaster, take any part in the conversation?

A. Yes, sir. He did just as much as I did; tried to stop them but couldn't.

Q. You mean to say you used any physical force, or simply spoke to them?

A. I couldn't use any force; I saw it wouldn't take very much to throw me down the gangway. I went to the center of the gangway and told them, and they pushed me aside and they came anyhow; they said they had just as much right as first-class passengers.

Q. Do you remember the names of any of the steerage passengers who were left in Honolulu?

A. I don't remember all the names of the steerage passengers; I know the names of the passengers who

(Deposition of Charles Trome.)

came from Hongkong, Robinson, Diller, Wallace and Schultz.

Q. How long were you stationed at the gang plank, after the ship arrived in Honolulu?

A. I was there for about twenty-five minutes, before the first passengers came down—these steerage passengers.

Q. Who relieved you at the gang plank?

A. There was nobody relieved me; I did that because the purser told me to see that nobody went ashore.

Q. How do you know others did not come ashore?

A. I reported to the purser, and I left orders with the quartermaster, and if they did to report it to me.

Q. You left the gangplank in charge of the quartermaster? A. Yes, sir.

Q. Do you know about any other orders being given concerning the passengers who left the "Mongolia," in regard to their returning on board the ship?

A. Yes, sir; I heard that if they would come back by 5 o'clock they would be allowed to go on board.

Q. Who gave that order?

A. The agent told me that, Mr. Klebhan.

Q. Did anybody come back at 5 o'clock, and make application to go aboard?

A. No, sir, nobody came back.

(Deposition of Charles Trome.)

Q. Was any other order given?

A. There was an order given about 8 or 9 o'clock, if any one would stay on the dock all night and be fumigated next morning they could be fumigated and go aboard the ship.

Q. Did anyone do that, that you know of?

A. One did.

Q. Who was that?

A. I think Alvarez, a Mexican.

Q. Then when I asked you if you knew of any steerage passengers who had gone ashore being taken again aboard the ship, and you said no, you were mistaken?

A. No, sir; he didn't go ashore; he went only on the dock; he never got outside the gate.

Q. Well, do you know of any of the steerage passengers, besides Alvarez, who took advantage of the offer of being fumigated? A. No, sir.

Cross-examination.

Mr. DAVIS.—Q. How long have you been going on the "Mongolia"? A. One year.

Q. How many voyages have you made?

A. Six voyages a year.

Q. Now what time was it you received these instructions from the purser?

(Deposition of Charles Trome.)

A. That is when we were right in the Quarantine Station.

Q. What time?

A. I don't remember the time; it was out in the quarantine station.

Q. Lying off the harbor? A. Yes.

Q. And how long after the instructions did you communicate this order to the steerage passengers?

A. Right after.

Q. Where was the instructions given to you?

A. In the purser's office.

Q. You came right out? A. Yes, sir.

Q. You went right down among the steerage passengers and gave them these instructions?

A. Yes.

Q. Did you go and tell each one of them, individually, the instructions? A. Yes.

Q. How many steerage passengers was there, 100; how many, 50?

A. Between 40 and 50. The steerage passengers were all in one room.

Q. Didn't they each have a room?

A. No, sir; they are all in one room.

Q. Were they all in that room when you came back from the purser's office?

A. They were all in there, and who wasn't were right by on deck.

(Deposition of Charles Trome.)

Q. Well, were all the steerage passengers in that room? A. Not all.

Q. Some were scattered about the steerage compartments, were they not?

A. Yes, sir.

Q. And you undertake to testify that you undertook to give each one of these men the order separately? A. Yes, sir.

Q. Did you tell that man (pointing to Alfred Iverson)? A. Yes.

Q. Where was he? A. Up on deck.

Q. You told him personally? A. Yes, sir.

Q. How long did it take you to go among these 40 or 50 steerage passengers and tell each one separately?

A. Well, in the room there was about 20.

Q. How long did it take you to do that?

A. About ten minutes.

Q. It took you ten minutes, to communicate to each steerage passenger, separately, this order?

A. Yes, sir.

Q. You told each one separately?

A. Yes, sir.

Q. You didn't tell them in a group, or standing around together?

A. I told them in a group and separately, too.

(Deposition of Charles Trome.)

Q. You gave these instructions to each one separately, is that true? A. Yes, that is true.

Q. Did you say it in a loud voice?

A. Yes, sir.

Q. Who was present at the time, outside of the steerage passengers?

A. Some of the crew was aboard the ship.

Q. Just repeat the instructions which you gave?

A. I told them "Nobody is allowed to go ashore, or else they have got to stay ashore and not allowed to come back on board the ship, on account of sickness."

Q. What sickness?

A. I told them there was sickness ashore.

Q. You didn't say where these orders came from, did you? A. Yes, sir, from the office.

Q. What office?

A. I told them from the purser's office, the purser said that nobody is allowed to go ashore, if they would go ashore they got to stay there, on account of sickness in Honolulu.

Q. You told each one of the men individually just in that language? A. Yes.

Q. Those were the exact words? A. Yes.

Q. And to each one separately? A. Yes.

Q. And it took about ten minutes to do that?

A. Yes.

(Deposition of Charles Trome.)

Q. Where were you after the first-class passengers landed; when they were coming off the vessel?

A. At the gangway.

Q. Up on the deck of the vessel?

A. On the deck.

Q. You came off as soon as the vessel was moored?

A. Yes, and stayed at the foot of the gangway.

Q. The first class passengers' gangway?

A. There was only one gangway.

Q. And you say Iverson (indicating Alfred Iverson) came down the gangway? A. Yes.

Q. How many people was with him?

A. I think there was three or four.

Q. What did you say to him when he came down the gangway?

A. I went to the middle of the gangway and told them to stop, they couldn't go ashore; if he would go he would have to stop on shore, and couldn't go to San Francisco.

Q. You say there was three people with him?

A. I don't remember just how many were with him.

Q. They all testify you was not there?

A. I was there.

Q. You told them not to go ashore, and you didn't say why, at the time they were going down the gangway?

(Deposition of Charles Trome.)

A. I told them there was sickness ashore.

Q. Will you testify that you said there was sickness ashore, at that time? A. Yes, sir.

Q. What did you say?

A. I told them they got to stay on the ship; they couldn't go off on account of sickness in Honolulu.

Q. Did you say that to each one?

A. I told three all together.

Q. What three?

A. Three or four; I don't know who.

Q. Was that all you told them?

A. Yes, that is the first bunch that came down.

Q. These were the only ones you told?

A. No, sir, I told everybody that came down.

Q. Whether or not these people came back at 5 o'clock, and tried to get back on the dock, you don't know?

A. I don't know anything about that; I only know what happened on the gangway, and what I told them aboard the ship; that's all I know.

W. ISAAC, a witness for the libelee, sworn and examined in the city of Honolulu, before Walter B. Maling, a United States Commissioner for the District and Territory of Hawaii, on the 22d day of October, A. D. 1905, gave testimony as follows:

(Deposition of W. Isaac.)

Deposition of W. ISAAC, taken under an order of Court dated November 17th, 1905, upon the application of libelee.

Direct Examination.

Mr. COOPER.—Q. What is your name?

A. W. Isaac.

Q. Were you carpenter on board the Steamship "Mongolia" on her trip to Honolulu in October, coming from Yokohama? A. Yes, sir.

Q. What do you know about any order given to the steerage passengers concerning their remaining on board the ship?

A. I heard the steward tell them "No passengers allowed ashore."

Q. Where were you and where was the steward and where were the passengers?

A. In the steerage, forward, starboard side.

Q. Describe as well as you can where you were?

A. I was on the starboard side alongside the No. 4 racks.

Q. How many of the steerage passengers were present? A. I don't know—a crowd.

Q. Can you repeat about what the steerage steward said to the passengers?

A. I heard him say that, that is all.

Q. What did he say?

(Deposition of W. Isaac.)

A. No passengers allowed ashore, or they couldn't get back on the ship.

Q. Well, where did you go after that?

A. I went to the windlass, forward.

Q. I understand you heard him say this only in one place? A. That is all.

Q. That was in the steerage, forward?

A. Yes.

Q. Were you at any time present at the gangplank? A. No, sir.

Q. Did you hear anything that the steerage passengers themselves said, when this order was repeated by the steerage steward?

A. No, sir, I was just passing at the time.

Cross-examination.

Mr. DAVIS.—Q. You had about 40 steerage passengers on board?

A. I don't know; maybe that many, or more.

Q. Now the steerage has how many rooms occupied by the steerage passengers?

A. They were all five of them occupied, sir.

Q. Five different rooms, wasn't there?

A. Five or six different places.

Q. And it was only in one place where you heard him say that, where they were gathered, were they all there? A. Yes, quite a number.

(Deposition of W. Isaac.)

Q. How many? A. I didn't count.

Q. Was there 20?

A. I guess so, if not more.

Q. Would you swear they were all there?

A. I would not.

Q. There wasn't more than 25 there?

A. There may have been 25, probably less.

Q. I suppose about 20?

A. Yes, about 20.

Q. At all events, the whole number of steerage passengers were not there at that time?

A. I couldn't tell you.

Q. You wouldn't undertake to swear there was more than twenty? A. No.

Q. Did you see that man (pointing to Alfred Iverson) there?

A. I couldn't tell whether he was or not.

Q. All you heard him say was that they were not to go ashore? A. Yes.

Q. That is all he said? A. Yes, sir.

Q. He didn't say where he got the order from?

A. No; I didn't stop to hear it.

Q. That is all you heard—not to go ashore?

A. Yes, sir.

Q. He didn't say by whose orders?

A. I don't know.

(Deposition of W. Isaac.)

Q. Was you at the gangway when the people went ashore?

A. No, sir, I was at the windlass two hours, and then taking on water.

Q. I suppose the steerage passengers were scattered about the deck all around, making preparations expecting to go ashore?

A. They were not all there, I can't tell; I don't know how many she carried.

Q. You could tell if they were all there?

A. If I stopped and looked I could.

Q. Well, there was about 20?

A. About 20?

Q. The rest was all scattered around?

A. They may have been in their rooms; I couldn't tell you.

MAX THORSCHMIDT, a witness for the libelee, sworn and examined in the city of Honolulu, before Walter B. Maling, a United States Commissioner for the District and Territory of Hawaii, on the 22d day of October, A. D. 1905, gave testimony as follows:

Deposition of MAX THORSCHMIDT, taken under an order of Court dated November 17th, 1905, upon the application of the libelee.

(Deposition of Max Thorschmidt.)

Direct Examination.

Mr. COOPER.—Q. Were you baggage steward on the Steamship "Mongolia" on her trip arriving in Honolulu, in the month of October, from Yokohama?

A. Yes, sir.

Q. Do you know anything about any orders being given to the steerage passengers on that ship, on your arrival off the port of Honolulu?

A. Well, the doctor was on board, and the quarantine officers; we was told that no one of the crew was allowed to go ashore, and when I came down to the steerage, after the doctor was passed, I seen the steerage steward talking to some of the passengers individually, telling them that they was not allowed ashore, if they did go they would have trouble getting back, because there was some kind of sickness in town.

Q. That was on the steerage deck?

A. Also on the upper deck, to passengers and members of the crew of the Steamship "Barracuda," cautioned them again not to go ashore.

Q. Did you hear anything else said by the steerage steward?

A. No, not at the time, but afterwards, on the gangway, about half an hour or an hour afterwards.

Q. Well, what took place?

(Deposition of Max Thorschmidt.)

A. He was at the foot of the gangway.

Q. What were you doing, and what did you hear him say, in the presence of any of the steerage passengers?

A. I was on the upper deck; I don't know what he said; I was too far up, but I see him try to stop people going ashore, and they forced their way through.

Q. Who was he doing that to?

A. Passengers, people we brought off the "Barracuda" as well. There was at least eight of them, maybe nine or ten.

Q. Where were you when you saw this?

A. On the main deck, right on top by the shed; I could see from there down on the dock.

Q. Do you know the name of any of these men you saw him trying to prevent going ashore on the gangway?

A. No, it is none of my business; I don't pay attention to the names.

Q. You know any of them by sight?

A. Yes.

Q. Could you say whether or not this man (indicating Alfred Iverson) was or was not one of them?

A. I couldn't swear to it; I was about fifty feet higher than the dock.

Q. What took place after the steward made this attempt?

(Deposition of Max Thorschmidt.)

A. They simply marched out the gate; I seen them myself; I was in the custom-house corral—a passenger left some hand baggage in a room, and I carried it to be examined—and while I was busy there, there was a passenger who got on at Hongkong, and a Swede, I don't know his name, I played cards with him in the evening many times, and two besides that was members of the crew of the "Barracuda," they passed me quickly, and I looked around and hollered at them, and said, "Don't go out; you can't get back," I seen all three of them.

Q. Do you know if any of the three you spoke to got back and went to Frisco? A. No, sir.

Q. Did you see any other members of the steerage of the "Mongolia" on shore, besides these three you saw at the custom-house corral?

A. I saw them in the afternoon; they was outside and couldn't get on.

Q. Did you hear any conversation taking place between the ship's officers and these men?

A. No, sir.

Q. You know anything else concerning the giving of these orders to the steerage passengers, except as you have testified?

A. No, that is all I heard; I heard the steerage steward speak to some individually, and went down in the steerage; he hollered out, "No one allowed

(Deposition of Max Thorschmidt.)

ashore, and if you do you will have trouble to get back." That is all I heard.

Q. You saw what he did on the gangplank, but didn't hear what he said? A. No, sir.

Q. You saw what the steward was doing on the gangplank?

A. Yes, I seen him hold his hands up and the steerage passengers simply brushed him aside, and they went through.

Cross-examination.

Mr. DAVIS.—Q. Did you talk over with anybody what evidence you was to give here?

A. No, sir.

Q. Haven't talked it over with the steerage steward, nor the purser—when did you first know that you were going to give evidence?

A. Just before the ship arrived; about half an hour before the tug left the ship I was called to the purser's office and told to get ready to go ashore.

Q. What for?

A. Well, I don't know what he said, he might have said to go to Court or to the office.

Q. Did you talk it over with the steerage steward?

A. No, sir; with the purser; in the purser's office.

Q. Did you talk this over with the steerage steward? A. No, sir.

Q. Had no conversation about it with anybody?

(Deposition of Max Thorschmidt.)

A. No, sir.

Q. I suppose the steerage passengers were scattered around, in the different compartments?

A. Yes, up and down.

Q. At the time the steerage steward gave these instructions? A. Yes.

Q. Some were in their rooms, were they?

A. Some was on deck, and some on the steerage deck, and some on the main deck.

Q. And some were in different parts of the ship?

A. Yes.

Q. They were not all in one room?

A. No, they was scattered.

Q. And, of course, when the steerage steward sung that out you don't know whether they all heard it or not? A. I don't know.

Q. You heard him sing it out, when there was a lot gathered around him? A. Yes.

Q. How many? A. About a dozen.

Q. There was about a dozen there? A. Yes.

Q. He didn't tell each one separately; he sung out to a crowd of about twelve? A. Yes.

Q. Did you see Iverson, this man here (pointing to Alfred Iverson), when he went to go ashore?

A. I don't recollect.

Q. You didn't hear the steerage steward tell him not to go ashore? A. No.

(Testimony of Dr. William C. Hobdy.)

Q. You don't know whether he received any such notice or not? A. I do not.

Q. You won't testify that he did? A. No.

January 8, 1906, 2 P. M.

Dr. WILLIAM C. HOBDY, called as a witness on behalf of libelee, being duly sworn, testified as follows:

Direct Examination.

Mr. McCLANAHAN.—Q. What is your name?

A. William C. Hobdy.

Q. What is your business?

A. I am a Commissioned Officer of the Public Health in the Marine Hospital Service of the United States.

Q. Stationed at Honolulu?

A. Stationed at Honolulu, for three years and a half.

Q. Who is your chief here?

A. Doctor L. E. Cofer, the chief quarantine officer.

Q. Where were you stationed on the 27th of October of this year?

A. In Honolulu, in the office of the Public Health and Marine Hospital service here.

Q. In whose charge was the office at that time?

A. In mine.

Q. Where was Dr. Cofer?

(Testimony of Dr. William C. Hobdy.)

A. On a two months' leave of absence on the coast.

Q. And you were the officer in charge in his absence? A. I automatically took charge.

Q. Do you remember the incoming of the Steamer "Mongolia" on that date? A. I do.

Q. Who were the officers that boarded her for inspection?

A. Dr. James and Dr. Sinclair, junior officers under me, at the time.

Q. Will you please tell the Court the condition of this Port, from a health standpoint, at the time the "Mongolia" arrived?

A. At this port, on the 27th of October, 1905, beginning with October 14th, or thereabouts, up to, and until the arrival of this vessel, or the day before her arrival, there had been several cases of plague in Honolulu, fatal to the number of ten. The cases had occurred chiefly in the Asiatic part of the city, and four of these cases had been sick some days before the local authorities could get any report about their illness, whatever, so there was no limit to the number of people who came in or out of the rooms of these sick persons and were exposed to infection, and in two of the cases they died immediately prior to the arrival of the "Mongolia"—the cases after a sickness of three or four days were found dead, and that was the first notification that any of the health authorities

(Testimony of Dr. William C. Hobdy.)

had that such existed, and nobody knows still how many different people may have been in and visited them, and been exposed to the infection. All that is known is the names, locality of the death, and the cause of their death, and approximate length of illness, which was three days in one case, and four days in the other.

Q. In consequence of the condition prevailing here at the time you mention, what was done, if anything, by you as quarantine officer for the United States, with respect to incoming and outgoing steamers?

A. The different deaths having occurred as I have stated, in the preceding ten days, made it necessary for steps to be taken at this port in order that vessels clearing from here for San Francisco, or other coast ports, should be treated in such a manner that we could certify that they were free from infection or the danger of having the same, or else they would be held in quarantine on arrival at the various coast ports, San Francisco, San Diego, Port Townsend and others, up and down. Owing to the conditions being such, I had, on the 25th or 26th of that month put in force certain quarantine regulations which, if obeyed by the vessels clearing from San Francisco or other coast ports, would enable them to be certified by me as being free from infection and upon receiving such certificate, or bill of health, the quarantine authori-

(Testimony of Dr. William C. Hobdy.)

ties, at the mainland ports, would pass the vessel without delay for inspection, in the city.

Q. Did you give such promulgation of the rules or regulation to the agents of the Pacific Mail Company here? A. I did.

Q. Can you identify the paper I hand you?

A. I can.

Q. Whose signature is this at the bottom?

A. My own.

Q. Is this the notification which you have spoken of? A. That is.

(Mr. McClanahan here read the paper just referred to, and offered the same in evidence, which was objected to by Mr. Davis on the ground that the instructions therein contained are not binding upon any of the libelants in this case, unless brought to their notice in some way, and even then they are not to be regarded as obligatory on a portion of the passengers and not on the rest. The objection was overruled and the document was admitted in evidence by the Court.)

Mr. McCLANAHAN.—(Referring to signature.) What does "P. A." mean?

A. Past assistant surgeon, second grade, in the service.

Q. At the time these rules and regulations were issued, was this port infected or not?

(Testimony of Dr. William C. Hobdy.)

A. It was infected.

Q. Do you know whether these conditions and regulations were complied with by the "Mongolia"?

A. They were.

Q. Suppose they had not been, what would have been the result, so far as you know?

A. She would have left here without my certificate as to whether these regulations had been carried out by her, and would have been held on her arrival in Frisco, and disinfected.

Q. Were you the officer that issued the Bill of Health?

A. That is done by the junior officers.

Q. In your department? A. Yes.

Q. Could she have received a clean bill of health if these regulations had not been complied with?

A. No. I might say that immediately on the instituting—

Mr. DAVIS.—I submit that no voluntary statement can be made by the witness at this time.

The COURT.—What is the nature of this further statement?

The WITNESS.—I was going to make it clear how the quarantine officer in San Francisco would have known that this vessel should have a bill of health from me before clearing on leaving.

(Testimony of Dr. William C. Hobdy.)

The COURT.—We will not take that up.

Mr. McCLANAHAN.—Q. Did you know of the leaving of the "Mongolia," after she had docked, of certain steerage passengers, in violation of your rules and regulations? A. I did.

Q. Will you tell the Court your first knowledge and how you obtained it of that fact, stating date and time and place?

Mr. DAVIS.—I submit it is hearsay and should not be received as evidence, what he was told.

The COURT.—Do you know this of your own knowledge, these infractions of your orders, or was it told to you?

A. It was reported to me by two persons on the dock, first from the custom-house inspector, and second from Doctor Sinclair, in my service.

The COURT.—Did you verify these reports in person?

A. No, I didn't go down and see that these persons were off the vessel.

The COURT.—In consequence of his hearing that some men broke the regulation he can state what he did.

Mr. McCLANAHAN.—Q. You say you did hear of some of the steerage passengers leaving the boat?

(Testimony of Dr. William C. Hobdy.)

A. Yes.

Q. Will you please state what was done by you in regard to this matter of the violation of your rules or regulations?

A. About 3 or half-past 3, on October 27th, I was notified of some thirteen steerage passengers—

Mr. DAVIS.—I object as to what he heard—

The COURT.—You may state, in consequence of hearing that some parties had broken the rules, what you did.

A. I called up the agent of the vessel, and stated to him what I had heard, and told him that if these steerage passengers had gone ashore, and then returned to the ship, that I could not issue to him a certificate or bill of health that would pass him through the quarantine inspection in San Francisco; that if they came ashore and went back on the vessel I would withhold that certificate and he would leave here without his bill of health. That was 3 or half-past 3 in the afternoon on the 27th of October.

Q. Did you subsequently inform an officer of the Pacific Mail Co., or its agents, of conditions or rules which, if complied with by these men who left the

(Testimony of Dr. William C. Hobdy.)

ship, would entitle them to a passage on her to San Francisco? A. I did.

Q. What was the information that you so imparted?

A. I said to the agent of the vessel that provided he would gather up any people from the steerage who had broken over the guards, and gone ashore, and hold them on the wharf, which I was able to certify to as being rat-proof and clean, I would, the next morning, disinfect their clothing and their baggage, as I had done with others, and then put them on the written list of certified passengers, along with the 250 others, thus giving the vessel a clean bill of health.

Q. You spoke of other passengers you had disinfected, were they steerage or cabin passengers?

A. All steerage.

Q. Leaving for San Francisco, on that boat?

A. Yes.

Q. What were the requirements under which steerage passengers were allowed to leave at that time on the "Mongolia," for San Francisco?

A. They were to report at 9 o'clock the day before the vessel was supposed to sail, at which time all their temperatures were to be taken by me, all the baggage disinfected by steam, and the passengers would be sent to Quarantine Island, and held, so they would have no communication with other people in

(Testimony of Dr. William C. Hobdy.)

town, or with infected inhabitants, and then, on the date of sailing, they would be brought on the Quarantine Island boat, directly from the scow on a vessel, and then counted, their baggage being brought along at the same time, no other baggage or parcels being allowed aboard in the steerage that could possibly have been contaminated ashore.

Q. On whose request, doctor, did you modify these usual requirements, as applicable to these men who had left the ship, and were at large in the city?

A. At the request of Mr. Klebahn, of Hackfeld & Co., who reported to me at 8 o'clock on that evening that he had gathered some seven or eight of these steerage passengers that had evaded the guard, and at that time had them on the dock. At that time I told Mr. Klebahn that if he would hold these men, 7 or 8 in number, on the dock that night, so that I would know that they didn't sleep in town, or that I would know that they had slept in an uninfected part of town, I would, in the morning, disinfect their clothing, and put them on the list of certified steerage passengers, and allow them to embark, and give the vessel a clean bill of health.

Q. Did you have the power to make the condition under which these men could return to the vessel?

A. Yes.

Q. That is given you by law?

(Testimony of Dr. William C. Hobdy.)

A. By regulation, founded on law, yes, sir.

Q. What regulation do you refer to?

A. The quarantine regulations of 1903.

Q. Can you identify this book? (Showing book.)

A. I can.

Q. What is that?

A. This is the Quarantine Laws and Regulations.

Q. Issued by whom?

A. Issued by the Secretary of the Treasury, under authority, the Quarantine Laws of 1903.

(Mr. McClanahan here offered the book just referred to in evidence, and the same was allowed by the Court.)

Q. Did you, Doctor, have any communication at all, personally, with these men whom you say had broken over the guards and gone ashore?

A. I did.

Q. When was it?

A. About 10 o'clock on the morning of sailing of the vessel, that is the 28th of October, four of these men came into my office and requested me to explain to them why they couldn't go on to San Francisco.

(Mr. Davis objected to testimony regarding these four men, and what they said, as not being evidence against the libelants in this suit. Objection overruled.)

(Testimony of Dr. William C. Hobdy.)

Mr. McCLANAHAN.—Q. What was the conversation, Doctor?

A. This was at 10 o'clock in the morning, and I told them at that time it was utterly impossible for them to go on the vessel.

Q. Did you tell them why?

A. I did; yes, sir.

Q. What was the matter?

A. The vessel sailed at 11; this was about 10. It was utterly impossible for me to get up steam in the disinfecting chambers and disinfect the clothing of these men, and their baggage, in time for them to catch the vessel sailing at 11 o'clock. It could never have been done before half-past 12 or 1.

Q. Did you know that these men were members of the "Barracuda's" crew?

A. They stated so to me. I would like to modify that answer, your Honor; I can't say that they stated to me they were members of the "Barracouda's" crew, but they said to me they were men who had left the "Mongolia" the day before, and wanted to go back on the ship.

Q. What was the condition of these men at the time they were at your office?

A. They were drunk, or practically so, sir.

Q. Under the influence of liquor?

(Testimony of Dr. William C. Hobdy.)

A. They were. Three of them perceptibly so. One who acted more or less as spokesman, not so much so. Half of them had black eyes and had the appearance of having been drunk.

Q. Can you describe the spokesman; was he tall or short?

A. I don't think I can answer definitely in either way.

Q. Doctor, you spoke of the "Barracouta's" crew? Where did you get that word from?

A. I had never heard of the word till that afternoon, but when it was reported to me that these men who had left the ship—

Mr. DAVIS.—I object to what was reported by these men.

The COURT.—In connection with your visit to the ship you heard that word as applied to part of the steerage passengers? A. I did.

Q. And these were steerage passengers who had left the ship? A. Yes.

Q. Did you have any other or further communication with these men after that time? A. None.

Q. Did those men return to the vessel?

A. No, sir; they did not.

Q. Under whose orders were they forbidden to return? A. Under mine.

(Testimony of Dr. William C. Hobdy.)

Q. Under whose orders and directions were they forbidden to leave the ship? A. Under mine.

Cross-examination.

Mr. DAVIS.—Q. Now these four men, you don't know the names of any one of them?

A. I do not, sir.

Q. And when the learned counsel undertook to ask you if the spokesman was a tall man or a short man, I suppose so many things happened on that day, you were so busy you wouldn't undertake to describe this man at this late date? A. Couldn't do it.

Q. You have no information that the names of these men were Iverson, Murphy, Roe, Morrissey and Kennedy?

A. No, sir; I heard no names called.

Q. Now, Doctor, if in speaking of steerage passengers—the vessel sailed, did she not, on the 28th of October? A. Yes.

Q. The steerage passengers that came down to the dock at 5 o'clock in the evening of the 27th, and were willing to go on the dock and sleep there, and undergo fumigation and everything, in accordance with your regulations, would it not have been right and proper for the company to have admitted them on the dock and notified you? A. No, sir.

Q. Wouldn't you have allowed them to go, after

(Testimony of Dr. William C. Hobdy.)

they had slept on the dock all night, and you fumigated them in the morning? A. No, sir.

Q. From five o'clock the night before?

A. No, sir.

Q. What about the other steerage passengers?

A. The others came at 9 o'clock the day before the vessel sailed, and were disinfected, and spent the night on Quarantine Island.

Q. And you wouldn't have allowed anybody who spent the night on the dock, to go on the vessel?

A. I couldn't have done that for the reason that on the morning of the sailing of the vessel we are too busy to attend to them, and for the reason that the incubation of the plague germ is about seven days, and it takes six days to go to Frisco, and I want the men under my observation the day before, so that if they should have had the symptoms they would have developed and it would show itself before their arrival at San Francisco, so that there is no danger of the development of the disease some time after a man gets into San Francisco.

Q. What was this modification you spoke of, that if they slept in an uninfected part of the town that night you would disinfect them the next morning?

A. That was after I was informed that they were members of the "Barracouta's" crew, and had been up town with other passengers, were from some

(Testimony of Dr. William C. Hobdy.)

wrecked or captured vessel and were on their way to the States, having been sent by the company, then, as a kindness to these men, I agreed—and as there were only thirteen of them—I agreed that if they would sleep there, so that I would know that they were not in any danger, the next morning at 8 o'clock I would try to get up some steam in the boilers and disinfect them.

Q. They having come at 5 o'clock thatnight were within that rule if the agents had notified you, were they not? A. I was notified.

Q. Then why didn't you carry that out?

A. The conditions I imposed were these: I said, if you will hold these men on the dock that night, so that I can know where they sleep, to-morrow morning I will fumigate them. Have these men remain on the dock all night and come around at 8 o'clock to-morrow morning, and I will carry out that procedure.

Q. And did you know, as a matter of fact, that these men had come at 5 o'clock, and offered to remain on the dock?

A. I know that at 8 o'clock seven or eight of them were there.

Q. That is, 8 o'clock that night?

A. Yes.

Q. The night before sailing? A. Yes.

Q. And they remained on the dock?

A. No, sir; they did not.

(Testimony of Dr. William C. Hobdy.)

Q. Where did they remain, do you know?

A. They stayed there, it was reported to me, till 9 o'clock, and then they went away and spent the night in town.

Q. Do you know there was five that wasn't permitted to go on the dock at all?

A. I don't know.

Q. But if these five men had remained on the dock you would have done that in their favor?

A. I did that in the case of one man.

Q. And would have done it with the rest, if the company's agents had notified you? A. Yes.

Q. Was this an infected port, within the meaning of the quarantine regulations? A. Yes, sir.

Q. Had that notice been given to the world, that this port was infected?

Mr. McCLANAHAN.—I object to that on the ground that there is no such requirement by law.

Mr. DAVIS.—Q. Was notice given in accordance with the quarantine regulation that this was an infected port, I mean to the health authorities at San Francisco, and publicly?

The COURT.—Ask one thing at a time. Was notice given to the doctor and the quarantine authorities in San Francisco?

(Testimony of Dr. William C. Hobdy.)

A. All the quarantine authorities, the quarantine officers of the service were notified, sir.

Mr. DAVIS.—Q. When?

A. The notice had been sent out on the 25th.

Q. But up to that time that had not arrived in San Francisco?

A. But that would be there before the vessel arrived.

Q. On the 27th there was no notice at San Francisco that this had been declared an infected port?

A. No.

Q. Who declared this an infected port?

A. I passed on the conditions here: I notified the quarantine officers of all the quarantine stations to which vessels from here would in any likelihood be going to, that owing to conditions at this port vessels clearing from here without a certificate should be held—this has been done so often in the last five years that they know what that means; we don't make any extra noise about health here, Your Honor, so in a circular letter, sent to the Chief Quarantine officer in the Philippines, and on the coast and often in New York and Philadelphia, I send a circular letter which reads: "Owing to health conditions, on and after the 25th of October, all vessels clearing from this port without a certificate of having complied with the

(Testimony of Dr. William C. Hobdy.)

special quarantine regulations, as set forth in circulars enclosed, should be held."

Q. But had you given public notice that this was an infected port, up to that time?

(Objected to by Mr. McClanahan as immaterial.)

Mr. DAVIS.—I will change the question. Did you give any notice in writing to the passengers of the "Mongolia," or cause to be posted up notices that this was an infected port, before she arrived here?

(Mr. McClanahan objected to the question as immaterial, and as being double. Objection overruled.)

A. Only through the agents; not personally.

Redirect Examination.

Mr. McCLANAHAN.—Q. Is it a part of your duty, Doctor, to give personal notice to the passengers of an incoming or outgoing boat, of the manner of which you notified the agents of the vessel of?

A. Never.

Q. This exhibit, which is the notification for H. Hackfeld & Co. which I offered,—are similar notices sent to all who are anticipated by you as having business with the boat?

A. Every shipper or every agent of any line of steamers or sailing vessels in the city is notified, receives a letter similar to the one received by H. Hackfeld & Co., every one that has a line, or if they

(Testimony of Dr. William C. Hobdy.)

have vessels, or one vessel, even the Chinese sawmill man down here, towards the railway station, every man gets one.

Q. You spoke of one man who had complied with your modified requirements; I will ask you if you had made any preparation for the fumigation of these men the next morning, which you heard were on the dock, and were being detained by the company that night?

A. I had not, because I had been informed the first thing that morning that these men, with the exception of one, had all run off the night before, and left the dock and spent the night in town.

Q. Didn't you take some kimonos over to the dock, for the use of these men?

A. I had already issued orders the night before at 8 o'clock, when informed that 7 or 8 men were on the dock, I issued orders to have the chambers heated up early the next morning, and kimonos taken over to change these men into while their clothing was being disinfected, after which they could put their clothing on again and be allowed to go aboard, but early the next morning I was informed that only one man remained on the wharf that night, that the others had gone away, and then I issued orders to my men on Quarantine Island not to heat up the chambers for this one man.

(Testimony of Dr. William C. Hobdy.)

Recross-examination.

Mr. DAVIS.—Q. Wasn't there as much danger for the first-class passengers going about the town, for them to carry the disease aboard the vessel, as there would be for the others?

A. No, sir.

Q. Why?

A. The cabin passengers coming in on a steamer would not sleep at a place where there was apt to be any likelihood of plague.

Q. These steerage passengers simply went up town, and didn't go in any other place; they were met on the street by the purser, and went right back to the dock. Would they be in any more danger?

A. After finding that the men had returned to the dock I made an exception; I said I will in the morning treat their clothes that way, provided they don't go any further—

Q. What I am asking you is this, were these passengers who went up town and simply took a walk, would there be any more danger of their carrying disease, than first-class passengers, who went all over? A. I think so.

Q. Because they were steerage passengers, and went up town? A. No.

Q. Why?

(Testimony of Dr. William C. Hobdy.)

A. For the reason that being steerage passengers the places they go to and inhabit are entirely separated from places cabin passengers go to, and for the other reason that under the law passengers are divided into two classes, cabin and steerage, and treatment is put down for all steerage passengers, and different for cabin passengers.

Q. Suppose these steerage passengers simply walked upon the street, and went right back, and didn't go into any of those places you described, would there be any more danger from them than cabin passengers?

Mr. McCLANAHAN.—I submit that the question has been answered, and is immaterial.

The COURT.—How is it material, Mr. Davis, if the regulations classify them and require a certain policy in regard to one class and a different policy for another class?

Mr. DAVIS.—Because those regulations may be unjust or unfair.

The WITNESS.—(Reading:) Section 27 states that "Passengers for the purpose of this regulation are divided into two classes, cabin and steerage," and then, that "Steerage passengers, or the crew, who in the opinion of the inspecting officer have been exposed to the infection of plague, should be held

(Testimony of Dr. William C. Hobdy.)

for medical observation in a place free from danger of infection, for a period of seven days before embarkation, and then their baggage disinfected." We, here, in order to hinder as little as possible communication between these islands and the mainland, hold them one day, and let the remaining part of the seven days be taken up in the passage from here to Frisco. Now, when it comes to cabin passengers, they have no restrictions except that the officer shall satisfy himself that they have not been immediately preceding their embarkation exposed to the danger of plague. I have to satisfy myself as to their residence before they do, and for this reason we have asked for a typewritten, duplicate list of passengers leaving. There is a difference made between passengers, cabin, and passengers steerage.

Mr. DAVIS.—Q. Now, Doctor, these men went up town, they went in no place, they simply went up Fort Street, and were met by the purser and told that they were steerage passengers and they had no right to come up town, and they went back to the ship, would there be any more danger of their carrying the plague than there would be for first-class passengers, who walked up the street and did the same thing; would there be any more danger from their taking a walk than the cabin passengers, Doctor?

(Testimony of Dr. William C. Hobdy.)

A. If a steerage passenger and a cabin passenger came off the vessel and walked arm in arm up the street, going in no place, and then went back, there is, in my opinion, no more danger of infection from one man than the other.

Q. Well, if they didn't go arm in arm—suppose they were on the other side of the street, one goes up one side and the other goes up the other, and they go to the same point, and then go back to the ship?

The COURT.—You may answer the question as to whether there would be any difference as to danger of infection between a cabin passenger and a steerage passenger, who would go up the same street, up to the corner of Fort and Hotel streets, and back again to the ship?

A. No, your Honor, I should say not.

Second Redirect Examination.

Mr. McCLANAHAN.—Q. Suppose a steerage passenger leaves the ship, spends the night in the city, on the streets?

A. Then I wouldn't pass him sir, because I have to insure myself that he has not been exposed to danger of infection.

Q. Would you pass them, Doctor, if you knew that they went to Fort Street, but from Fort Street,

(Testimony of Dr. William C. Hobdy.)

to the time they appeared again, you didn't know where they went—steerage passengers?

A. I wouldn't, no, sir.

Q. Would you pass them under those circumstances?

A. Not unless I could know where they went; I couldn't feel safe in handling a class of steerage passengers, with the conditions as they were at that time.

Second Recross-examination.

Mr. DAVIS.—Q. Have you, Doctor—if you had known that they had gone to no place where they could possibly have got any infection, you would have passed them?

A. I wouldn't say; because I had issued certain regulations which these steerage passengers must comply with, and they would have to go through on the same basis. What I mean is, because Judge Dole's servant lives out at Waikiki, and is going steerage, and Waikiki is perfectly healthy, and a Japanese servant living at King and Liliha Street, which is infected, they are both steerage passengers, I can't make any distinction between them, and we treat them all alike.

Q. That is not my question at all. These men were passengers on that steamer from Yokohama to San Francisco. They had paid their fare. Had had

(Testimony of Isaac Bray.)

nothing to do with Judge Dole's servant and the man on Liliha and King Streets. These poor fellows simply came off the vessel and took a walk up town; would the knowledge that they hadn't gone anywhere where they could possibly be infected with this disease, wouldn't you put them through the fumigation and allow them to go?

A. I agreed to do that, because I would have still had them for one whole night, and their seven days would have still been up at the time they arrived in San Francisco. I would have known where the were for exactly seven days, and it was on that account that I said to Mr. Klebahn that if these people would remain on the dock that night I would fix them the next morning, and allow them to proceed.

ISAAC BRAY, called as a witness on behalf of libelee, being duly sworn, testified as follows:

Direct Examination.

Mr. McCLANAHAN.—Q. What is your name, occupation and residence?

A. Isaac Bray, superintendent of the Sailors' Home.

Q. In this city? A. Honolulu.

Q. Did you entertain at your place, Captain, some members of the crew of the "Barracuda" about October 28th last? A. I did.

(Testimony of Isaac Bray.)

Q. Under orders received from Mr. Chillingworth, did you not? A. Not at first.

Q. Tell us the circumstances under which they first came to your place.

A. On the evening of October 28th they came in and reported that they had been left by the "Mongolia," that they were part of the crew of the Barracouta" and were on their way home in the "Mongolia"; said they had been ashore and were not permitted to return to the ship; they had nowhere to go and no place to sleep, and wanted to know if I would take them in. I had a little conversation with them in regard to the "Barracouta," and knowing that she was a vessel in the same employ I asked them if they were passengers, or if they joined as part of the crew. They said passengers, and they wanted to go on her but they wouldn't be permitted to, or hadn't been permitted to. I told them that as long as they had nowhere to sleep they could come in for a night or two at least, until further developments were made. They remained there that night and I think one or two nights after that Mr. Chillingworth sent me orders to take them in at his expense, which I did. They remained there till they went away. One of them went on the "China," I think. I was in Messrs. Hackfeld & Co's. one day, to collect some bills, and Mr. Klebahn informed me that if they were willing to return—

(Testimony of Isaac Bray.)

(Mr. Davis objected to what Mr. Klebahn may have told the witness as being hearsay and not the best evidence.)

The COURT.—Mr. Bray, what day was that, that you went to Hackfeld & Co's. to collect bills, and had this conversation with Mr. Klebahn?

A. I couldn't say what day it was; it was the 28th that they came there I think, that was Saturday, and this was the following Monday, if I am not mistaken.

The COURT.—I will allow this testimony to go in, subject to objections, and reserve a ruling. (To the witness.) You spoke about going to Hackfeld & Co's. to collect some bills, and then Mr. Klebahn talked to you—go on from there?

A. He stated that they were ready to send the men on by the "China" and that if they were willing to go they would be responsible for their board and lodging. I was looking out for the security for the Home; I made this known to them. Seamen going through generally like to talk over their affairs, the past voyage and treatment they have had, and very often advise with me as these men did at that time, they asked me what I thought of the case, I told them I thought the best thing they could do was to go right on, as soon as they could. That was all that was said at the time; afterwards they in-

(Testimony of Isaac Bray.)

formed me they had concluded to remain, and have the case tried.

Mr. McCLANAHAN.—Q. As a matter of fact, Captain Bray, has not H. Hackfeld & Co., the agents of the Pacific Mail Steamship Co., reimbursed you or paid you for the board and keep of some of these men under the offer made by Mr. Klebahn in the office of that company that morning?

(Objected to by Mr. Davis as being indefinite.)

A. One man that went on the "China" that Saturday after.

The COURT.—What was his name?

A. Miller.

(Mr. Davis moved to strike the evidence out in regard to what was done in the case of Miller, as Miller was not a libelant and what the company did with reference to one man could not affect the others. The Court allowed the objection.)

Mr. McCLANAHAN.—Captain Bray, you say that Mr. Chillingworth is responsible, or stands sponsor for these men, since they brought the suit?

A. Yes, sir.

Q. Has he paid anything to you?

A. He has not.

Cross-examination.

Mr. DAVIS.—Q. Has he promised to pay you?

A. He has.

Q. You hold him responsible for the debt?

A. Yes.

(The trial of this cause was here continued, being again taken up on Tuesday, the 9th day of January, 1906.)

From Minutes United States District Court, Vol 3, page 673, Tuesday, January 9th, 1906.

No. 62.

ALFRED IVERSON,

vs.

PACIFIC MAIL STEAMSHIP COMPANY.

Trial (Continued).

Now on this day again come proctors for each side and the trial of this cause is proceeded with by the further introduction of evidence; at the conclusion of which argument is had by respective counsel. And the hour for adjournment having arrived, the further argument is continued until Wednesday, January 10, 1906, at 10 o'clock A. M.

From Minutes United States District Court, Vol 3, page 674, Tuesday, January 9th, 1906.

No. 64.

JOHN KENNEDY,

vs.

PACIFIC MAIL STEAMSHIP COMPANY.

Trial (Continued).

Now on this day again come proctors for each side and the trial of this cause is proceeded with by the further introduction of evidence; at the conclusion of which argument is had by respective counsel. And the hour for adjournment having arrived, the further argument is continued until Wednesday, January 10, 1906, at 10 o'clock A. M.

From Minutes United States District Court, Vol 3, page 673, Tuesday, January 9th, 1906.

No. 63.

PATRICK MURPHY,

vs.

PACIFIC MAIL STEAMSHIP COMPANY.

Trial (Continued).

Now on this day again come proctors for each side and the trial of this cause is proceeded with by the further introduction of evidence; at the conclusion of which argument is had by respective counsel. And the hour for adjournment having arrived, the further argument is continued until Wednesday, January 10, 1906, at 10 o'clock A. M.

From Minutes United States District Court, Vol. 3, page 674, Tuesday, January 9th, 1906.

No. 66.

THOMAS ROE,

vs.

PACIFIC MAIL STEAMSHIP COMPANY.

Trial (Continued).

Now on this day again come proctors for each side and the trial of this cause is proceeded with by the further introduction of evidence; at the conclusion of which argument is had by respective counsel. And the hour for adjournment having arrived, the further argument is continued until Wednesday, January 10, 1906, at 10 o'clock A. M.

From Minutes United States District Court, Vol. 3, page 674, Tuesday, January 9th, 1906.

No. 67.

GEORGE M. MORRISSEY,

vs.

PACIFIC MAIL STEAMSHIP COMPANY.

Trial (Continued).

Now on this day again come proctors for each side and the trial of this cause is proceeded with by the

(Testimony of R. L. Halsey.)

further introduction of evidence; at the conclusion of which argument is had by respective counsel. And the hour for adjournment having arrived, the further argument is continued until Wednesday, January 10, 1906, at 10 o'clock A. M.

January 9th, 1905, 10 A. M.

R. L. HALSEY, called as a witness on behalf of the libelee, being duly sworn, testified as follows:

Direct Examination.

Mr. McCLANAHAN.—Q. What is your name, your occupation and your residence?

A. Richard L. Halsey, United States Immigration Inspector, Honolulu.

Q. How long have you been engaged in the Government service, in the capacity of immigration officer?

A. I have been connected with the Immigration Bureau for over five years, I think.

Q. How long have you been stationed at this place? A. A little over two years.

Q. Were you here in the performance of your duties as such officer on October 27th last?

A. I was.

Q. You remember the occasion of the steamer "Mongolia" arriving at this port on that date?

A. Yes, sir.

(Testimony of R. L. Halsey.)

Q. Did you perform any duties in connection with your office at that time?

A. I was the boarding officer for the Immigration service, on that ship.

Q. On that ship did you meet any of the crew of the "Barracouta"?

A. I met the sailors in the steerage.

Q. Will you please tell the Court what conversation you had with these men at that time?

A. I went twice in the performance of my duties to the steerage, and on my second visit the sailors evidently took me for some officer connected with the passing of the ship—

Q. You mean Marine Hospital service?

A. Yes, and wanted to know if they could go ashore, and one of the number stated they were Pacific Mail men, and remarks were made in regard to discrimination in favor of the cabin passengers—

(Objected to by Mr. Davis unless there is evidence that these men were the libelants, to which objection the Court stated that he would allow the examination to go on, and would reserve a ruling on the same.)

Mr. McCLANAHAN.—Q. What reply did you make, Mr. Halsey, to these statements?

A. I told the men they would have to see the quarantine officials about that; I was an immigra-

(Testimony of R. L. Halsey.)

tion officer, and had nothing to do with them if they were not ticketed to this port on the list which I had.

Q. Subsequently did you see these men, or any of them, again on the ship?

A. Yes, sir, I saw them, a number of them, three or four at least, on the turn of the gangway.

Q. Who was there on the gangway with you at that time, beside these men which you saw?

A. The steerage steward and Mr. Curry.

Q. Will you please tell what took place there, in your sight and hearing, at that time?

A. The men came down the gangway, the landing, the steerage steward stood at their right hand as they came down, at the head of the lower stairs; I was next to him. They were moving together as if they would come on the dock. He spoke to them to the effect that they were forbidden, on account of quarantine regulations, to come ashore, there was some language used, which—

Mr. DAVIS.—I object. All he can testify to is to what was said, so far as he can remember what they said in his presence.

The COURT.—Overrule the objection.

The WITNESS (Continuing.) —was a protest against his interference. I can't recall the exact

(Testimony of R. L. Halsey.)

words, but they spoke in strong measures of the men of the sea, under excitement, and pushed by him and went down stairs on to the dock.

Q. Did these men use force, in securing passage down the gangway?

(Objected to by Mr. Davis as leading. Objection sustained.)

Mr. McCLANAHAN.—Q. Will you state, Mr. Halsey, what was the attitude of these men towards the steerage steward, with reference to the passage which they seemed to be taking down the gangplank?

A. Their attitude was rather threatening to my mind.

Q. Can you state whether or not there was any effort made by the steerage steward to restrain these men at all, from their threatening purpose to go down the gangplank?

A. I saw no physical effort, except that he confronted them.

Cross-examination.

Mr. DAVIS.—Q. You don't know who these men were, don't know their names?

A. No, sir, I only recognized them as some of these men that were in the steerage.

Q. Some steerage passengers?

(Testimony of R. L. Halsey.)

A. Some of the men who were in the steerage, yes.

Q. That is all you know as to them?

A. I know that there were some men in there, nearly all of the men in that department, the men who are in there, were listed as sailors, that is, they were from the "Barracouta."

Q. How do you know they were from the "Barracouta"?

A. They were listed—it was written across a sheet.

Q. Did they have any marks on them that they were from the "Barracouta"?

A. I don't know these individual men, but there were a number of men so marked.

Q. Whether these men who came down the gangplank were some of the crew of the "Barracouta" you don't know of your own direct knowledge?

A. No, except that most of the men were of that number.

Q. But you had never seen these men before?

A. No.

Q. You don't know that they were from the "Barracouta," the men that came down the gangplank?

(Objected to by Mr. McClanahan as immaterial. Objection overruled.)

(Testimony of R. L. Halsey.)

A. I do not know it positively.

Q. You don't remember of what took place there? A. Where?

Q. There that day? A. At what place?

Q. You weren't paying particular attention to the conduct of these men, were you?

A. I had other duties to perform, yes.

Q. And you were not paying strict attention to what took place between these men and the steward?

A. Only what I observed.

The COURT.—How many men were in this bunch that came down, that you noticed?

A. Three or four at least.

G. S. CURRY, called as a witness on behalf of libelee, being duly sworn, testified as follows:

Direct Examination.

Mr. McCLANAHAN.—Q. What is your name, your occupation and your residence?

A. My name is George S. Curry, stenographer, and acting Chinese inspector of the United States immigration service at this port, residence Honolulu.

Q. Were you on the 27th of October last in the city of Honolulu?

A. I was in the city of Honolulu.

(Testimony of G. S. Curry.)

Q. Were you here in the performance of your duties at that time? A. Yes.

Q. Did you have anything to do in connection with the steamship "Mongolia" arriving at this port on the 27th of October?

A. I did, sir.

Q. You have been in the courtroom when Mr. Halsey gave his testimony? A. I was, sir.

Q. Are you the immigration officer referred to by him as being on the gangplank of the steamship "Mongolia"?

A. Yes, sir, I was at that time.

Q. Will you state what you remember to have occurred at that time on the gangplank?

A. I remember that Mr. Halsey and I stood on the gangplank there, we were awaiting the time when the immigrants for this port were to be taken off the vessel, and while standing there we noticed the steerage steward was standing opposite Mr. Halsey—rather a small man—and we noticed coming down the gangplank several men, they had every appearance of being seafaring men, they were men of good size, they came down the gangplank and when they came down they were informed by the steerage steward that the quarantine was in force, that they couldn't go on shore. Their reply to that, their attitude was threatening and they brushed by the steward, there being no possibility for him to

(Testimony of G. S. Curry.)

stop them, and went down on the dock. What became of them after that I don't know.

Q. Subsequently, Mr. Curry, did you have any conversation with any steerage passenger on the Steamship "Mongolia"?

A. I remember that some time after that, perhaps less than half an hour, it was a few minutes, ten or fifteen minutes, I was standing at the head of the gangway on the deck of the ship, and while waiting there, I was waiting for one of the interpreters, there was a man, a white man, evidently a seafaring man of the same character as these others, he came up to me and I couldn't give the exact conversation of course, he evidently took me for a quarantine officer, I had on a uniform then, and spoke, he said, "I want to go on shore." I told him the port was in quarantine, and the steerage passengers were not allowed to go on shore; the cabin were. He intimated to me, in forceful language, that he was a white man, a citizen, and had as much right to go on shore as fellows in the cabin. He stood around and I saw him going down the gangway.

Q. From what he said, and the manner in which he approached you, can you state whether or not he had knowledge that the port was in quarantine, when he approached you?

(Testimony of G. S. Curry.)

A. Well, he came to me with those words on his lips, that he thought it was an injustice that he should be kept on the ship.

Q. Did you inform him you were not a Marine Hospital man?

A. I told him I was an immigration officer.

Q. It was after that he went down the gangway?

A. Yes, sir.

Q. Do you know who these men were, that went down in the first instance, down the gangplank?

A. I was informed that they were members of the "Barracouta's" crew; they were sea-faring men, I could swear to that of my own knowledge.

Q. Do you know who this single man was, that you spoke to?

A. He was the same class as these other men.

Mr. DAVIS.—I move that the whole evidence be stricken out. (To witness.) Do you know the man's name?

A. It was not my business to ask his name.

Mr. DAVIS.—Q. You never saw the man before?

A. I don't look at every man on the ship.

Mr. DAVIS.—Q. Do you know that man's name; don't be impertinent and you answer my questions. Had you ever seen him before?

A. I didn't ask him his name.

(Testimony of G. S. Curry.)

Q. Had you ever seen the man before?

A. I don't know.

Mr. DAVIS.—I submit that all that evidence must be stricken out, as in no way connected with these libelants, and it is none of it evidence in this case. I move to strike it out as irrelevant, incompetent and immaterial to this issue, as libelants are not bound by any acts or statements of other persons.

The COURT.—Q. What was the first remark that this man who talked to you made?

A. The exact words I could not give you, but I could give you the substance of it. I was there in immigration duties, and not paying much attention. The substance was that it was an injustice, and an unjust imposition to keep steerage passengers on board the ship while they allowed cabin passengers to go ashore.

The COURT.—Q. And when was that he asked you if he could go ashore, before that, or after that?

A. The first statement was about the injustice of it, and he wanted to know if I couldn't see that he got ashore. I told him I was an immigration officer, I didn't have anything to do with the imposing of quarantine. I said the doctors of the Marine Hospital Service had imposed quarantine, and no steerage passengers were allowed on shore.

F. W. KLEBAHN, called as a witness on behalf of the libelee, being duly sworn, testified as follows:

Direct Examination.

Mr. McCLANAHAN.—Q. What is your name, occupation and residence?

A. Frederick William Klebahn; secretary of H. Hackfeld & Co.; residence, Honolulu.

Q. Secretary of what?

A. Of H. Hackfeld & Co., Ltd.

Q. What is the relation existing between Hackfeld & Co., and the Pacific Mail Steamship Co., the libelee in this case?

A. Hackfeld & Co. are the agents of the Pacific Mail Steamship Co. at the port of Honolulu.

Q. What business have you to do with this branch of the business of Hackfeld & Co.?

A. I am taking care of the agency.

Q. What are your duties, generally?

A. We attend to everything in connection with the steamers calling at this port.

Q. You have to do with passengers?

A. Yes, sir.

Q. Sale of tickets? A. Yes, sir.

Q. Carrying out of quarantine regulations?

A. Yes, sir.

Q. Do you remember was this your business on the 27th of October last? A. Yes, sir.

(Testimony of F. W. Klebahn.)

Q. You remember the coming to this port of the Steamship "Mongolia" on that date?

A. I do.

Q. On that date?

A. On the 27th of October.

Q. Is she one of the vessels of the Pacific Mail fleet? A. Yes, sir.

Q. Prior to the arrival of the steamship "Mongolia" had you had any communication with the Marine Hospital Service men with reference to quarantine? A. Yes, sir.

Q. I hand you Exhibit "B" of the libelee, and ask if you can identify that? A. I can.

Q. Is this the communication you had with these men?

A. That is the written communication I got from the United States Public Health and Marine Hospital Service on the 27th of October.

Q. Did you have any verbal communication with the Marine Hospital service prior to this?

A. I had, with Doctor Hobdy who was in charge, on the 25th of October.

Q. What was the communication?

(Objected to by Mr. Davis, as not being proper evidence. Objection overruled).

A. Our office was notified by Dr. Hobdy on the 25th of October, at 1:30 P. M. that the outgoing quar-

(Testimony of F. W. Klebahn.)

antine had to be enforced at the port of Honolulu. I immediately proceeded to Doctor Hobdy's office, and asked him if he could not put it off till after the departure of the "Mongolia," because practically half of the business had been finished for that steamer, half the tickets had been sold and it would have been a hardship for us to get the steerage passengers together and to have their baggage down to the quarantine wharf for fumigation. He told me it was impossible, as he had cabled to Washington that the outgoing quarantine was going into effect on the 26th of October at noon. I asked him whether it was possible for him to give us an officer to station at the gangway to see to it. He said it was impossible for him, as he was short-handed and he could not spare any men.

Q. Between this conversation and the receipt of the written notification of the rules and regulations, did you have any communication with Dr. Hobdy?

A. I had, in telling him that we had rounded up all the steerage passengers with the exception of one, but we were endeavoring to find him, and would send all the baggage and the passengers down to the Quarantine Wharf, as was told me by him, on the 26th of October, at 9 A. M.

Q. Was that all that you had between these two periods of time?

(Testimony of F. W. Klebahn.)

A. If I remember rightly it was all.

Q. What hour of the day did the "Mongolia" arrive at this port?

A. She was sighted about 10:30, I should say.

Q. On the 27th of October?

A. On the 27th of October, Friday.

Q. Did you board her while at sea?

A. I went outside in the custom-house launch, and boarded the steamer there.

Q. What communication with reference to quarantine, if any, did you make to the officers of the ship at that time?

A. I immediately proceeded to the captain, and told him the regulation as told me by Dr. Hobdy, especially notifying him that none of the crew, with the exception of the captain, chief officer, chief engineer, the doctor, the chief steward, the freight clerk and the purser were allowed ashore, and that none of the passengers except cabin could go ashore at the port of Honolulu.

Q. Do you know why these exceptions were made in favor of certain officers named by you?

A. Those were the instructions that were given me by the doctor, and I had to carry them out.

Q. He made those exceptions himself, did he?

A. He made those exceptions himself; two exceptions he consented to after I had called his attention

(Testimony of F. W. Klebahn.)

to it, that was the freight clerk and the steerage steward. He only wanted to give permission for five at first.

Q. Why did he except for these two?

A. I told him the chief steward had to go up town, to supervise the buying of provisions, and the freight clerk had to go up town to see after freight.

Q. After seeing the captain did you see any other officers of the "Mongolia"?

A. I immediately proceeded to the purser's room, and told him, in the presence of Dr. Sinclair, of the quarantine regulations which were enforced by the United States Marine Hospital Service; he in turn, in my presence, called the steerage steward into his room, and told the steerage steward to immediately notify all steerage passengers that they were not allowed to go ashore at Honolulu, and the steeerage steward then left the room.

Q. Subsequently, Mr. Klebahn, when did you first know of the rules and regulations with reference to steerage passengers having been violated?

A. After the captain and myself had been to the Custom House and entered the vessel.

Q. What time was that?

A. About 2:45 P. M. we went to the office of Hackfeld & Co. and sat down there, I was writing an envelope to be forwarded with a copy of the mani-

(Testimony of F. W. Klebahn.)

fest to Washington, when a telephone message was received by me from Dr. Hobdy that he was informed at the dock that steerage passengers were going ashore, and if that was the case under no circumstances could he give us a clean bill of health. I told him that it was impossible for me to understand it; that I would immediately proceed to the wharf and let him know. The captain and myself went down in a hack to the dock, and found some white people, who the captain told me were members of the crew of the "Barracuda," and found them outside the gate.

Q. What time was this?

A. A little after 3 o'clock in the afternoon. I got out the hack, and told these people to immediately go back to the steamer, and stay there, they were not allowed to come ashore. They turned around and went back to the steamer. The captain and myself went on board the boat and had a search made as to how many steerage passengers had actually gone away. While this was being made the captain was in his room investigating how it happened that the steerage passengers, contrary to his orders, had gone ashore. The steerage steward came up and said they had gone by him. The steerage steward told the captain, on his inquiry, that he had tried in vain to stop these people from going ashore, but they had simply brushed by him and he could not use any force.

(Testimony of F. W. Klebahn.)

After a little while the report was received by us, in the captain's room, that 13 steerage passengers were missing. The captain, in my presence, asked from the Bridge, the carpenter of the "Barracouta," "Have you been notified that you are not allowed to go ashore?" he said "Yes, sir." I told then the captain to take the quartermaster from the foot of the gangway, where he was stationed at the time, to the gate, and have him stay there, with a watchman that we had placed at the gate, and not to let anybody go ashore without proper identification of being a cabin passenger; this was done. I then telephoned to Dr. Hobdy and told him that 13 steerage passengers had gone ashore, and asked him for instructions what to do, whether they could take them back on board the ship, or whether we should make any efforts to round them up, and if we succeeded what to do with them. He told me to make an effort to round them up and let him know of the result by five o'clock; to get the people down to the dock and keep them outside the gate until he gave us further instructions. I then proceeded up to the office again, and a little before 5 o'clock I got a telephone message from Mr. Reilly, our superintendent on the wharf, that there were six or seven men outside the gate, and what to do with them. I told him I could not get the doctor, I was trying to telephone to him at his

(Testimony of F. W. Klebahn.)

house, at the station, at his office, and nobody knew where he was. I could not get hold of him, and did not until that night, after dinner, which I took on board the "Mongolia" about half-past 8, I should judge. Dr. Sinclair came down to see whether the regulations as prescribed by Dr. Hobdy were carried out by the steamer. He found some fault in regard to the placing of rat funnels on the lines. He telephoned to Dr. Hobdy and I then communicated with Dr. Hobdy, after he got through, about these men, what to do. In the meantime the people who were outside the gate at 5 o'clock had partially left and had gone up town again. He told me then, or I rather suggested to him, whether it would not be a wise thing to have these men that were down at the dock at 9 o'clock come inside the gate; if they stayed on the dock all night, take them over to the Quarantine Island the next morning, have their clothing fumigated and their temperatures taken, and then pass them on the steamer. After quite an argument he said that was all right, and it could be done. That everybody that was down at the dock at 9 o'clock that night should be taken inside the gate and the next morning as early as possible be brought over to the Quarantine Wharf, not later than 8 o'clock, and he would certify to them and they could go aboard the steamer. In the presence of Dr. Sinclair and Mr.

(Testimony of F. W. Klebahn.)

Reilly, we took all the people outside the gate, about eight, inside, and I told them exactly the state of affairs as the doctor had told me, what they had to do if they were going to sleep on the dock all night, and stay there, and not go outside the gate, they would be admitted to the steamer again, and there would not be any trouble about going on the steamer. I then proceeded to the office, and stayed there until about half-past twelve. About quarter-past nine Mr. Reilly telephoned to me again, Friday night, he said it is impossible to hold these people here, they want to go up town again, in fact some of them have gone. I then told him to tell them again the same thing, that they had to stay on the dock in order to go on the steamer, which were the definite instructions of the doctor, and I also told him prior to leaving the wharf, that if anybody came after 9 o'clock to take them inside and tell them about what they would have to do to get on the steamer. About ten o'clock I got a notification that all had left but one, who stayed on the dock all night, was taken over in a hack to the Quarantine Wharf next morning, certified to by the doctor and put aboard the "Mongolia."

Q. Between your visit to Dr. Hobdy's office, at the time he told you to have the men down there, that you could round up at 5 o'clock, did you see the purser? A. I did.

(Testimony of F. W. Klebahn.)

Q. What conversation did you have with him at that time?

A. After we had made the search on board the steamer, to find out the exact number of people, and names, who were missing, we went up to the office together, the purser and myself, and he said that he was going to go out to the barber and come back, and we would go to dinner on the "Mongolia." After he returned he told me he had met a bunch at the corner of Fort and Hotel Streets, of the steerage passengers of the "Mongolia," and had told them to go back immediately to the wharf, as most likely they would be left behind and there would be trouble, as they had broken the quarantine regulation.

Q. Did he state to you who these men were?

A. He said members of the "Barracouta's" crew.

Q. What other conversation took place between the purser and these men?

(On motion of Mr. Davis the answer to this question was by the Court ordered stricken out, as improper, and as not being evidence.)

Q. When, Mr. Klebahn, after Friday, did you first have anything to do with either these libelants or any agent or attorney of the libelants?

A. After the sailing of the "Mongolia" about 12 o'clock, noon, Saturday.

Q. Relate the interview?

(Testimony of F. W. Klebahn.)

A. There were several of the steerage passengers who were left behind, men that I remember, Iverson and Miller, came to the window and asked me what would be done with them. I told them that I had looked into the matter, and that I would send them up on the "China," the very next boat that would leave, on or about November 6th. They told me then they did not have any money, and I told them it was very unfortunate, but I could not help it, it was not our fauld that they were left behind. I further stated to them that I was very busy, on account of the Steamer "Coptic" which was in port at the same time, which was scheduled to leave for the Orient at 3 o'clock; to come back again, and I would consider the matter further.

The COURT.—What time in the afternoon was this?

A. About noon; after I came in from the "Mongolia" with which steamer I had gone outside.

Mr. McCLANAHAN.—Q. At that time did they leave the office?

A. They left without saying anything further.

Q. Do you know Mr. Charles F. Chillingworth?

A. Yes, sir.

Q. Did he make a visit to your office?

A. He did.

(Testimony of F. W. Klebahn.)

Q. Before or after the visit of these men?

A. After.

Q. Well, relate the conversation that took place between you and Mr. Chillingworth?

A. He said what was going to become of these men that were left behind from the "Mongolia." I repeated to him that I was going to send them up on the "China," but as to providing for their eatables, etc., and sleeping, while here, I could not give him an answer at that time, as I stated before, I was too busy, on account of the "Coptic," but asked him to come again and I would let him know definitely what I would do.

Q. Why was it that you had not made up your mind as to whether or not you would provide their keep while here?

A. Because our instructions as to steerage passengers are they are not allowed lay-over privileges; secondly, if they are not allowed any lay-over priviieges they are not allowed any board and keep while n port, if they had stayed over. I took it on my own responsibility to send them up on the "China," and was taking chances of getting a reprimand from the head officer, but I was going to take the chance of bearing that here because they were marked on the list which I got from the purser as members of the "Barracouta's" crew.

(Testimony of F. W. Klebahn.)

Q. And that is why you were undecided as to their keep?

A. Yes. As soon as I had more time I would look into the matter.

Q. When Mr. Chillingworth left your office he had from you a proposition to send them on the "China," and a request that he return for further suggestions as to their keep? A. Yes, sir.

Q. Did he acquiesce to that?

A. He didn't say much, he went away and I didn't see him again.

Q. Who next did you see with reference to these "Barracouta" men, and their transportation and keep while here?

A. Next I saw Captain Bray, of the Sailors' Home, I think it was on Monday morning about 9 o'clock, and I asked—no, that isn't the next that I saw. Next I saw a man who was standing outside of our office door when I came back from the custom-house with the captain of the "Coptic"; I should judge that was about half past one in the afternoon, October 28th, Saturday. There was a pile of baggage placed at the corner, and this man was standing with it, evidently watching it.

Q. Whose baggage was it?

A. This man told me it was the baggage of the men of the "Barracouta" who were left behind from

(Testimony of F. W. Klebahn.)

the "Mongolia". I approached this man and asked him whether he was one of the people left behind. He said no. I asked him whether he was watching this baggage, whether this belonged to these men; he said yes. I said, "Will you see these people again?" He said, yes, they were coming back. I told him, "If you see them again request them to go to the Sailors' Home and come back to our office on Monday morning, and I will tell them definitely then what I am going to do." On Monday I met Captain Bray, of the Sailors' Home, in the office. He was collecting some sailor notes at our cash window. I asked him if these people had come to the Sailors' Home; he said yes. I asked him, I informed him then that so far as I had heard they were going to sue the Pacific Mail Co., but if there was no trouble I was going to be responsible for the bills. He said all right. About an hour later Mr. George Davis came up to our ticket window—

Q. Is that the proctor in this case, for the libelant?

A. Yes. Came up to our ticket window with steerage checks, numbering six I believe, and told me that he was representing these people, what was going to be done with them. I told him that I had made up my mind, on account of the condition they were under, being members of the "Barracouta's"

(Testimony of F. W. Klebahn.)

crew, that I was going to send them up on the "China," on the steerage ticket issued by the Purser of the "Mongolia," and provide for their board and keep in the Sailors' Home until the arrival of the "China". That further, in order to secure transportation on the "China" they had to live up to the rules and regulations in regard to outgoing quarantine. Mr. Davis told me then, whether that would be all right, and if I wouldn't pay a reasonable attorney's fee. I told him I hadn't engaged any attorney, and could not possibly pay any attorneys' fee. He said he had gone to some trouble, and was expecting some money for it, and I told him he had to look for remuneration to his clients. After that he has not been in the office again, and on Tuesday I was served with the Libel of Iverson, Alfred Iverson.

Q. That was on Tuesday, October 31st?

A. Yes.

Q. Can you identify these as the steerage checks which were shown to you by Mr. Davis. (I hand the witness the Libelant's Exhibit No. 1 in all of the cases.)

A. There are only five of them here; there was one more.

Q. You identify these then? A. Yes.

Q. You know which the other one was?

(Testimony of F. W. Klebahn.)

A. Harry Miller.

Q. Between the filing of the first libel of Alfred Iverson, and the filing of the next libel, which was Saturday, November 4th, did you have any conversation with Mr. Davis, further, with reference to a settlement?

A. I met Mr. Davis on the street several times, and he approached me to make a settlement in order to avoid the trouble.

Q. What was the basis of the settlement he asked for?

A. After meeting Mr. Davis, in Mr. McClanahan's office, on Friday of that week, I think it was Friday, I went with him to the corner of Merchant and Fort Streets, and Mr. Davis told me that if I paid him, or the Pacific Mail Company paid him $200.00 he would call the whole thing square.

Q. Two hundred dollars, what was that for?

A. For the sleeping accommodations and the expenses, and the trouble he had gone to.

Q. Did he mention anything about any fee?

A. That was included in the $200.00.

Q. What was the basis of negotiations which were offered to you by Mr. Davis at other times?

A. Any further offers?

Q. Yes?

A. I think that was the last offer that I got from Mr. Davis.

(Testimony of F. W. Klebahn.)

Q. Mr. Klebahn, did you, after the six libels had been filed, have any communication with the men with reference to a settlement with them?

A. Yes, sir, I did.

Q. Was it written or verbal?

A. It was in writing.

Q. I hand you a book, what is it?

A. It is our copy book, from the office.

Q. Will you please turn to the writing, if it is copied there, referred to. (Witness does so.) The letter is dated November 4th, addressed to each of the libelants. I ask you to identify it. I ask you to turn to page 305, and ask you what you find?

A. A copy of one of the letters which was addressed to one of the six libelants in this case, on November 4th, and which was handed to them, personally, at our ticket window, on the afternoon of November 4th, in the presence of Mr. Reilly, each of the libelants receiving one of these letters.

(Mr. McClanahan here offered the letter just referred to in evidence. The same was objected to by Mr. Davis, as not being in the way of negotiations at all, the agent having been treating with counsel, and then writing libelants a voluntary letter.)

The COURT.—I will allow it, subject to the future ruling of the Court.

(Testimony of F. W. Klebahn.)

Mr. McCLANAHAN.—I will read the letter:

"H. HACKFELD & CO. LTD.

Honolulu, November 4th, 1905.

Mr. Thomas Roe, Honolulu, T. H.

Sir:—On last Monday morning, October 30th a. c. we notified your attorney Mr. Geo. A. Davis that we would give you transportation on the S. S. "China," sailing from this port for San Francisco on or about the 6th day of November on the steerage check held by and issued to you by the purser of the S. S. "Mongolia," and in the meantime would pay you for keep at the Sailor's Home in this city, up to the sailing of the S. S. "China" for San Francisco.

We made this offer on information that you are under shipping articles with the P. M. S. S. Co.'s S. S. "Barracouta," which require your return to San Francisco.

From information this day received we have reason to believe that our offer was not communicated to you until after suit had been brought for damages against the Pacific Mail S. S. Co. We now renew our offer, and advise you that if it is accepted you must report to this office at 9 o'clock A. M. to-morrow, Sunday, November 5th a. c., to learn the quarantine regulations that must be complied with before passage can be given on the S. S. "China." If you decline this offer or fail to so report, then for the Pacific Mail S. S. Co. or the charterers of its S. S.

(Testimony of F. W. Klebahn.)

"Barracouta" we notify you that you have broken the articles under which you were originally shipped at San Francisco, and that in consequence you will have forfeited all rights for wages thereunder.

Yours truly,

(sgd.) H. HACKFELD & CO. LTD.,
F. WM. KLEBAHN, Secretary,
Agents Pacific Mail S. S. Company.

Same letter to all libelants.

(Mr. Davis objected to said letter, as incompetent, irrelevant and immaterial, to which objection the Court reserved a ruling.)

Mr. McCLANAHAN.—Q. Have you one of the blank forms of tickets that would be issued in Yokohama, for steerage passengers? A. Yes, sir.

Q. Please produce it?

(Witness hands ticket to Mr. McClanahan, who offers the same in evidence, and the Court allows the same.)

Mr. McCLANAHAN.—Q. I will ask you the question whether or not if this ticket were issued without consideration, there would or does appear on the ticket itself any indication of that fact?

A. No, it does not.

Q. Where does this information as to the tickets being issued without consideration appear?

(Testimony of F. W. Klebahn.)

A. In a notification to the purser of the vessel.

Q. Have you or have you not any information as to whether the books of the company show that these men did not pay for these tickets?

Mr. DAVIS.—I object—

The COURT.—If that is objected to the books will have to be shown.

Mr. McCLANAHAN.—Q. Have you any books that show the status of the holders of these steerage tickets? A. No, I have not.

Q. Where are those books?

A. In San Francisco.

Q. Do you know the contents of those books, on that subject, the subject as to whether or not they show that these "Barracouta" men did not pay for these tickets?

A. I know the books will show it.

The COURT.—But you do not know what they show?

A. No, I don't.

The COURT.—You haven't seen the books?

A. No.

Mr. McCLANAHAN.—Q. If these men had been permitted to return to the Steamship "Mongolia" after they had left the vessel as they did on the 27th of October, what would have been the result?

(Testimony of F. W. Klebahn.)

A. The steamer would have been held up at San Francisco.

Q. With reference to securing a bill of health here could she have secured a bill of health?

A. Dr. Hobdy told me, on my final effort to get these people on board the steamer, October 28th at 9 A. M., that there was no use of telephoning any more. These people were on no consideration to be allowed on the steamer, and he wanted me and Mr. Reilly on the dock to understand that none of these people were to go on the steamer provided we wanted to get a clean bill of health.

Q. Then you had information that the steamer could not get a clean bill of health if these people were allowed aboard? A. Yes, sir.

The COURT.—You referred to what the purser told you in regard to his meeting these men at the corner of Fort and Hotel Streets? A. Yes, sir.

Q. Did he tell you what time he met them, what time of day?

A. It was a little before 5 o'clock.

The COURT.—Well, I think Dr. Hobdy said that if they were down there by 5 o'clock he would arrange for them to be fumigated, and be prepared for the voyage, and upon that would allow them to sail, was it not so?

(Testimony of F. W. Klebahn.)

A. He did not. He told me to have them down on the dock, outside the gate at 5 o'clock, hold them there until his further instructions which I got that night about 8 o'clock, and communicate them to all the people that were there.

The COURT.—Was there any intimation to you that he would meet them there about 5 o'clock?

A. No, sir, he simply gave the instructions to hold them outside the gate.

Cross-examination.

Mr. DAVIS.—Q. Isn't it a fact that as soon as the purser told these men they were not allowed ashore they went right back to the dock?

A. I don't know.

Q. Do you know they all testified that they went down to the dock, and were refused admission by the quartermater of the "Mongolia"?

A. I don't know.

Q. Will you swear they were not?

A. They were refused admission according to their testimony and according to my knowledge.

Q. And they had come there about 5 o'clock.

A. Somewhere in the neighborhood of 5 o'clock.

Q. And they went back there at 9 o'clock that night, did they not?

(Testimony of F. W. Klebahn.)

A. According to their testimony, and to my knowledge, there were about 7 or 8 men there that night, who were taken inside the gate and told by me personally in the presence of Dr. Sinclair and Mr. Reilly, that if they stayed on the dock all night, and slept there, that they were then allowed to go on board the steamer.

Q. I say wasn't Iverson, and these five libelants, in these present suits, down there at 9 o'clock that night, and refused admission to go on the dock at all?

A. I don't know if they were there or not.

Q. Will you swear they were not?

A. I don't know whether they were or not.

Q. Will you undertake to contradict it?

A. I don't know it.

Q. Did they not come back in the morning at 9 o'clock? A. They say they did.

Q. And were they not refused admission then?

A. They were; according to the instructions of the doctor.

Q. Do you know whether or not these men had gone into any place when up town, I mean previous to five o'clock?

A. I do not. It is not my business to know.

Q. Is it not a fact that you did not proffer these men any money, nor did you tender them any ticket on the "China"?

(Testimony of F. W. Klebahn.)

(Objected to by Mr. McClanahan as being a double question. Question withdrawn.)

Q. Did you offer these men any money?

(Objected to by Mr. McClanahan as immaterial. Objection overruled.)

Q. Did you tender these men, or offer these men any money, to provide themselves with the necessaries of life? A. I did not give them any.

Q. Did you offer them any?

A. No, sir, but I offered them the necessaries of life.

Q. Did you offer them any money?

A. No, sir. I am not under any obligation to do so.

Q. Did you tender them any ticket?

A. No, sir.

Q. It was all talk, was it not?

A. It was a proposition made to an attorney representing people, if that is talk.

Q. But it ended in negotiations—there was nothing done?

A. There was nothing done by the attorney.

Q. There was nothing done by the agents of the steamship company to provide these libelants with food, was there?

A. It was, to a certain extent.

(Testimony of F. W. Klebahn.)

Q. Will you swear that the company provided these men with any food, these libelants?

A. No, sir.

Q. Did you tender them any ticket, Mr. Klebahn, by the "China," was there any ticket tendered to these men?

A. There was no necessity of tendering them any ticket.

Q. Was any ticket tendered, in fact?

A. They were holding a steerage check issued by the purser of the "Mongolia," and on that I would have issued transportation on the "China."

Q. I asked you was any ticket tendered to these men? A. It was unnecessary.

Q. I ask you was any ticket tendered, again, answer yes or no? A. No.

Q. Now you say, didn't I tell you that my offer of settlement was made without prejudice in this case; didn't I tell you that I wanted to treat the firm of Hackfeld & Co., fairly, and that I made this offer without prejudice to my rights in the case?

A. That was the first time.

Q. Didn't I tell you that it was made without prejudice?

A. The second time you made the flat-footed offer that I was to pay you $200.00, and you would call the whole thing square.

(Testimony of F. W. Klebahn.)

Q. But didn't I tell you "without prejudice to either party"? A. That was the first time.

Q. You advised the steamship company to settle, did you not? A. No, sir.

Q. You didn't cable and ask them to settle?

A. I cabled for instructions.

Q. Didn't your attorney advise you to settle?

A. No, sir.

Q. Nobody did? A. No, sir.

Q. What was the cable which you sent?

A. I have to look it up, if you will give me a chance.

Q. Well, what was the cable that was in regard to this?

A. I can give you the substance of it.

Q. Well, give it to us.

A. If I remember it was about in the following way—I could not say because I have sent two cables.

Q. Give us the contents and substance of both of them, if you can?

A. I can't without looking it up.

Q. Have you copies? A. I have.

Q. I wish you would bring them here?

The COURT.—Bring them here after recess.

Q. Now, Mr. Klebahn, isn't it a fact that these men went to your office and applied for money and assistance on two different occasions?

(Testimony of F. W. Klebahn.)

A. On one occasion.

Q. Then, Mr. Chillingworth came back, and you were too busy to attend to him, you didn't give him any definite answer as to whether you would provide these men with the necessaries of life or not, you told him to come back? A. Yes, sir.

Q. Then I went there? A. Yes, sir.

Q. And you made the statement then that you would send them up by the "China," provide them with board, but would not pay any fees of any kind?

A. I would not pay any attorney's fees to you.

Q. You have a horror of paying an attorney, is that not a fact? That is the reason you would not pay an attorney, you wouldn't pay them anything; at all events you refused to pay the attorney?

A. I did.

Redirect Examination.

Mr. McCLANAHAN.—Q. Did I understand you to say that this offer of $200.00 was made direct from Mr. Davis to you?

A. Yes, sir.

Q. He knew at that time that I was acting for the Pacific Mail Company, did he not?

A. You were coming from the office.

Mr. DAVIS.—Q. Didn't I tell you to submit that to Mr. McClanahan?

A. Not to my remembrance.

(Testimony of H. L. Reilly.)

Mr. DAVIS.—Q. Will you testify to that, Mr. Klebahn?

A. Not to my remembrance.

Mr. DAVIS.—Q. Didn't you go to Mr. McClanahan, directly?

A. I went down to the office.

Mr. DAVIS.—Q. Well, afterwards, didn't you communicate it to Mr. McClanahan?

A. I may have seen Mr. McClanahan.

H. L. REILLY, called as a witness on behalf of libelee, being duly sworn, testified as follows:

Direct Examination.

Mr. McCLANAHAN.—Q. What is your business, your name and your place of residence?

A. Superintendent of the wharf of the Pacific Mail Steamship Company, H. L. Reilly, and Honolulu is my residence.

Q. Was that your occupation at the time the "Mongolia" reached this port October 27th last?

A. Yes, sir.

Q. Do you remember the occasion of the leaving of the ship "Mongolia" by the steerage passengers?

A. I know they did leave; yes, sir.

Q. Did you have anything to do with these passengers, these steerage passengers that left the Steamship "Mongolia"?

(Testimony of H. L. Reilly.)

A. Yes, sir; I was to see that they didn't get back again.

Q. Who did you get your orders from?

A. From Mr. Klebahn.

Q. What were those orders?

A. That the doctor said the ship couldn't have a bill of health if they were allowed aboard again, and I was to keep them off the wharf.

Q. When, after receiving these instructions, did you have occasion to talk to or see these steerage passengers who had left the boat?

A. About half-past five, near five o'clock.

Q. On Friday, the 27th of October?

A. Yes, sir. I telephoned to Mr. Klebahn that they was there, and what should I do. He told me to keep them outside the wharf and let him know. I told him there was a bunch there, 7 or 8 or 10, and I said, "What shall I do with them"? He said he would get Hobdy on the phone and let me know.

Q. Did you have any conversation with these men outside the gate at that time?

A. No, sir; just saw them standing there, and gave the quartermaster and watchman orders not to let them in under any consideration. Well, about 6 o'clock there was part of them went up town, and came back again.

Q. What time? A. About half-past seven.

(Testimony of H. L. Reilly.)

Q. Did you have any conversation with them then? A. No, sir.

Q. When was your first conversation with them?

A. About 8 o'clock, after Mr. Klebahn had talked with Dr. Hobdy over the phone, and we left them inside, and Mr. Klebahn instructed them what was to be done, and I talked to them.

Q. What was the instruction Mr. Klebahn gave to these men, inside the dock?

A. He told them if they would sleep on the dock, and stay there all night, they would be sent to the Quarantine Wharf about 7 o'clock the next morning, and they could get on the ship.

Q. Did Mr. Klebahn tell the men whose orders those were?

A. Yes, sir. The United States doctor was standing right there, Dr. Sinclair.

Q. What was the instructions you gave them?

A. To the same effect.

Q. Did you hear any conversation among the men?

A. Yes, they said they didn't propose sleeping on the dock all night and they was either going aboard the ship or up town. I told them they would not go on board the ship, and they all left except one man.

Q. Do you know what became of him?

(Testimony of H. L. Reilly.)

A. He slept there all night, and the next morning I sent him over in a hack to the Quarantine Wharf, and he was passed by the doctor.

Q. Did you see these men afterwards, that wouldn't stay all night on the dock?

A. I noticed them the next morning, standing outside.

Q. What vessels of the Pacific Mail Company were in the port at that time?

A. Any other vessel?

Q. Yes. A. No, sir, not of the Pacific Mail.

Q. Was there any other vessel at all?

A. There was one of the O. & O. boats at the same wharf.

Q. Who are the agents?

A. H. Hackfeld & Co.

Q. What is the name of that vessel?

A. The "Coptic."

Q. Did you have any conversation with any of these men subsequently?

A. I met them on the street several times.

Q. Did you have any talk?

A. Yes, they asked me what they was going to do about it, and what I thought about it. I told them I thought they better go back to San Francisco as quick as they could. They said they didn't know; they had an attorney and left it to him.

(Testimony of H. L. Reilly.)

Cross-examination.

Mr. DAVIS.—Q. You gave them some good, fatherly advice?

A. When they asked for it, yes.

Q. Will you swear that Iverson and these five libelants were inside the dock that night at 9 o'clock, that night?

A. No, sir. I didn't know his name till afterwards.

Q. Were these five libelants inside the dock?

A. I couldn't swear to it.

Q. They testified they were refused admission; you cannot swear they were not?

A. I can say no one was refused admission from 8 to 9.

Q. These men were refused at 5 o'clock and 9 o'clock, at 9 o'clock?

A. Yes, at 5—at 8, or between 8 and 9 they could all come on the dock.

Q. These men said at 9 o'clock they were refused admission; will you deny that?

A. After 9. Up to 9 they were not refused.

Q. Will you swear that all of these five libelants were inside the dock? A. No, sir.

Redirect Examination.

Mr. McCLANAHAN.—Q. You have mentioned

(Testimony of F. W. Klebahn.)

in cross-examination they were allowed inside the dock from 8 to 9; what was the 9 o'clock limitation?

A. The doctor said they had to be on the dock before 9; after 9 he didn't want to have anything to do with them.

Q. So that acting as you did, after 9 o'clock, you were acting under the instructions of the doctor?

A. Yes, sir.

January 9th, 2 P. M.

F. W. KLEBAHN, recalled.

Mr. DAVIS.—Q. Have you got the copies of the cablegrams?

A. I haven't got the exact copy, I took them off as fast as I could get them.

Q. Have you any objection to letting me see them? A. You can see them, yes.

Q. Read them off?

A. The first cable that I had sent was, I think, about a day prior to the arrival of the "Mongolia" in San Francisco, so they could be prepared for it; it was after the libels had been filed.

The COURT.—Is it dated?

A. It was dated on the 2d of November, and is as follows: S. S. "Barracouta" men have commenced action for damages. As soon as the arrival of the "Mongolia" is reported in San Francisco interrogate ship's carpenter S. S. "Barracouta," and other steerage passengers as to the time of the notice given

(Testimony of F. W. Klebahn.)

that steerage passengers are not allowed to go ashore at Honolulu. Depositions will be required. Communicate immediately with W. PP. S. Porter, the Commander of the "Mongolia."

(The witness then read another cablegram, received from San Francisco by him, in reply to the one just read, and another one sent by him to San Francisco, which, on motion of Mr. Davis, were, by the Court, ordered stricken from the record, as being immaterial.)

The WITNESS (Continuing).—The same date I cabled, right after this, after conversation with Mr. Davis: "Steerage passengers claim were left behind, that they were not notified; shall we attempt to make settlement for transportation on Steamship 'China' and pay libelants' attorney $200.00"? That was after I had this offer from Mr. Davis. The reply was "Testimony here shows all steerage passengers were notified according to instructions Federal Quarantine Officials, impossible to go ashore. They landed by force. Federal Quarantine Officer notified company declining clean bill of health if these people be permitted aboard without fumigation; steerage passengers declined to submit later; afterwards closed gates excluded steerage passengers outside the dock. If above are facts, which you should know, the Government should protect us, we should fight

(Testimony of A. N. Sinclair.)

the case." I replied the next day, "Five men S.S. Barracouta refused passage S.S. China; will fight cases."

(Mr. McClanahan here offered in evidence the answer to two cablegrams.)

A. N. SINCLAIR, called as a witness on behalf of libelee, being duly sworn, testified as follows:

Direct Examination.

Mr. McCLANAHAN.—Q. What is your name, your occupation and residence?

A. A. N. Sinclair, physician and surgeon, residence Honolulu.

Q. Are you connected with the Government service in any way?

A. I am Acting Assistant Surgeon of the Public Health and Marine Hospital Service.

Q. Was that your occupation on the 27th of October last?

A. If that is the date the "Mongolia" was in I would say so; I don't remember the date.

Q. You remember the arrival of the "Mongolia" from Japan? A. Yes.

Q. You were one of the boarding officers, were you? A. Yes.

Q. Did you receive from Dr. Hobdy, the evening of Friday, October 27th, the date the "Mongolia"

(Testimony of A. N. Sinclair.)

arrived, any communication with reference to conditions under which certain steerage passengers that had left the boat in violation of the Quarantine regulations might be received back? A. Yes.

Q. Will you state to the Court what they were, and how you received them?

A. I was down at the Hackfeld Wharf to see if the "Mongolia" was complying with certain regulations that we had, and found that she was not altogether, and I called up Dr. Hobdy to ask him what should be done, and when we settled the matter on which I called him up he said, "Now in regard to the men who had been up town, you may tell them that if they are all on the dock by 9 o'clock, and will stay on the dock all evening and all night, that tomorrow morning we will bathe them and disinfect their clothes, and allow them to proceed on board." I then inquired into details, and found that several of the steerage passengers, 11 or 12, had escaped, or forced their way ashore, so I was told, and that five or six had already returned.

Q. Returned where?

A. Returned to the dock. When I went back on the dock I met five or six of these men, and they were very much abused because they were not allowed to go up town again, after coming back, and asked me if I wouldn't let them go up town. I told them no;

(Testimony of A. N. Sinclair.)

we were stretching a point to allow them to proceed on their way. That it was necessary to stay on the dock all night, and to bathe and be fumigated the next morning, and under those conditions we should allow them to proceed. At that time Mr. Klebahn came up and reiterated my statement, and said that was the case, and after fixing up other matters I returned home. The next morning when I went to check up at the steamer, only one had obeyed orders.

Cross-examination.

Mr. DAVIS.—Q. You don't know whether these five libelants in this suit were admitted to the dock at all?

A. I don't. There were five men on the dock—

Q. You don't know whether they were refused admittance or not?

A. The only men I saw were the five men who were already on the dock.

Q. You don't know whether these men were refused admittance; they testified they were refused admittance, they haven't denied that so far, will you attempt to deny it? A. No.

From Minutes United States District Court, Vol. 3, page 675, Wednesday, January 10, 1906.

No. 62.

ALFRED IVERSON,

vs.

PACIFIC MAIL STEAMSHIP CO.

Order Submitting Cause.

Now on this day again came proctors for each side and the trial of this cause is proceeded with by the further argument of respective counsel, at the conclusion of which the cause is submitted and by the Court taken under consideration.

From Minutes United States District Court, Vol. 3, page 675, Wednesday, January 10, 1906.

No. 64.

JOHN KENNEDY,

vs.

PACIFIC MAIL STEAMSHIP CO.

Order Submitting Cause.

Now on this day again came proctors for each side and the trial of this cause is proceeded with by the further argument of respective counsel, at the conclusion of which the cause is submitted and by the Court taken under consideration.

From Minutes United States District Court, Vol. 3, page 675, Wednesday, January 10, 1906.

No. 63.

PATRICK MURPHY,

vs.

PACIFIC MAIL STEAMSHIP CO.

Order Submitting Cause.

Now on this day again came proctors for each side and the trial of this cause is proceeded with by the further argument of respective counsel, at the conclusion of which the cause is submitted and by the Court taken under consideration.

From Minutes United States District Court, Vol. 3, page 676, Wednesday, January 10, 1906.

No. 66.

THOMAS ROE,

vs.

PACIFIC MAIL STEAMSHIP CO.

Order Submitting Cause.

Now on this day again came proctors for each side and the trial of this cause is proceeded with by the further argument of respective counsel, at the conclusion of which the cause is submitted and by the Court taken under consideration.

From Minutes United States District Court, Vol. 3, page 676, Wednesday, January 10, 1906.

No. 67.

GEORGE M. MORRISSEY,

vs.

PACIFIC MAIL STEAMSHIP CO.

Order Submitting Cause.

Now, on this day again came proctors for each side and the trial of this cause is proceeded with by the further argument of respective counsel, at the conclusion of which the cause is submitted and by the Court taken under consideration.

In the United States District Court for the Territory of Hawaii.

April, A. D. 1906, term.

IN ADMIRALTY.

No. 64.

JOHN KENNEDY,

Libelant,

vs.

PACIFIC MAIL STEAMSHIP COMPANY,

Libelee.

No. 62.

ALFRED IVERSON,

Libelant,

vs.

PACIFIC MAIL STEAMSHIP COMPANY,

Libelee.

No. 66.

THOMAS ROE,

Libelant,

vs.

PACIFIC MAIL STEAMSHIP COMPANY,

Libelee.

No. 63.

PATRICK MURPHY,

Libelant,

vs.

PACIFIC MAIL STEAMSHIP COMPANY,

Libelee.

No. 67.

GEORGE M. MORRISEY,

Libelant,

vs.

PACIFIC MAIL STEAMSHIP COMPANY,

Libelee.

Decision on Motion to Retax Costs.

GEO. A. DAVIS, Proctor for Libelants.

KINNEY, McCLANAHAN & COOPER, Proctors for Libelee.

Gratuitous Undertaking: If a party undertakes gratuitously to perform a service for another and enters upon its execution the fact of the gratuitous nature of the undertaking does not relieve such party from liability to the other for the results of his own negligence in its performance.

The following order of consolidation was entered in the case of Kennedy vs. Pacific Mail Steamship Company:

"Upon consent of respective proctors for the libelant and the libelee given in open court, it is hereby ordered that all of the evidence given viva voce as well as by deposition given and read in this suit may be considered as given and read in each of the following suits, which are together with the above-entitled suit consolidated for the purpose of trial, and that separate findings and decrees may be made and entered herein:

Alfred Iverson vs. Pacific Mail Steamship Company;

Patrick Murphy vs. Pacific Mail Steamship Company;

Geo. M. Morrisey vs. Pacific Mail Steamship Company;

Thomas Roe vs. Pacific Mail Steamship Company.

Done in open court this 4th day of January A. D. 1906."

The libels in these cases are substantially the same except as to the names of the libelants.

The story in these cases as shown by the pleadings and evidence to the point of issue, is substantially as follows:

The libelants, in August 1905, signed articles with libelee in San Francisco of the State of California, whereby they agreed to ship as seamen on libelee's Steamship "Barracouda" on a nine months' voyage to an unknown port in Siberia at wages agreed upon. The said "Barracouda" proceeded on said voyage with the libelants on board and was afterwards captured by the Japanese, and her crew, including libelants, were taken before a Japanese Court by which they were discharged; and thereafter, on or about the 16th day of October, 1905, at the instance of the captain or other officer of said "Barracouda," libelee took libelants and the rest of the crew of the "Barracouda" on board its Steamship "Mongolia," then in Yokohama in the Empire of Japan, for the purpose of transporting them to said San Francisco, issuing tickets to them, which, after leaving port, were taken back in exchange for steerage or passenger checks, of one of which the following is a copy:

"(2-1-05-3 M.) S. G. 63

PACIFIC MAIL STEAMSHIP COMPANY.

Steerage Check.

Steamer: "Mongolia," Voy. 7.

Name: J. Kennedy.

From Yokohama to San Francisco.

No. Ticket: 9115.

(Stamped) A. E. RENNIE,
Purser.

Good for this trip only—To be shown and returned when called for."

—this being the copy of the check issued by libelee to libelant John Kennedy, in exchange for his ticket first issued to him. Similar checks were issued to each of the other libelants in exchange for their tickets.

Before the arrival of the said Steamship "Mongolia" off the Port of Honolulu on her way to said San Francisco, officials of the United States Marine Hospital Service in the Territory of Hawaii, acting under the laws of the United States and the regulations of the United States Treasury Department, issued an order that steerage passengers of incoming steamships should not be allowed to land at said Honolulu, notice of which order was given on board of the said Steamship "Mongolia" upon her arrival off said Port of Honolulu. After the said vessel reached the dock at said port of Honolulu libelants

went ashore and upon attempting to return on board the same day for the continuance of their voyage, were refused admittance by the agents of the libelee and were left in said Honolulu, the Steamship "Mongolia" proceeding on her voyage to San Francisco on the succeeding day.

The libelee, in its answer, raises a question of law in regard to these passenger checks, admitting that they were issued to libelants, but denying that they were tickets or contracts for the passage of libelants, or that they entitled libelants to passage from said Yokohama to said San Francisco. We have no samples of the tickets which were first delivered to them but the checks which were later given to them in exchange for such tickets, stamped by the purser with his name, A. E. Rennie, Purser, implies an agreement to transport them from Yokohama to San Francisco, giving the number of tickets which may be presumed to be the tickets which they gave up to the purser in exchange for the checks. With these tickets in their hands and the circumstance of their coming on board and beginning the voyage by virtue of such checks and the tickets for which they were exchanged the burden of proof is clearly upon the libelee to show that there was no contract between it and these libelants. The libelee alleges that neither libelants nor any one else paid anything for their transportation from Yokohama to San Francisco. This may be taken as correct as the libel

does not allege consideration. I find, however, that there was a definite undertaking on the part of the libelee to carry libelants from Yokohama to San Francisco on board the Steamship "Mongolia" as shown by the checks in question and by all of the undisputed facts in the case pertaining to that transaction; and that the fact of such engagement being possibly gratuitous so far as the evidence in the case shows, does not relieve the libelee from responsibility for its own negligence on the voyage injuriously affecting the libelants, if any such negligence exists.

"The confidence induced by undertaking any service for another, is a sufficient legal consideration to create a duty in the performance of it." Coggs vs. Barnard (L. Raymond, 909); 1 Smith's Leading Cases, 82.

"If a party who makes this engagement (the gratuitous performance of business for another) enters upon the execution of the business, and does it amiss, through the want of due care, by which damage ensues to the other party, an action will lie for this misfeasance." Thorn v. Dias, 4 Johns. (N. Y.) 84; Steamboat New World v. King, 57 U. S. 469; Boyce v. Anderson, 27 Id. 149; Almy v. Cotton Bros. & Co., 2 U. S. Dis. Ct. Haw., 163, 169.

The following issues of fact were raised by the further pleadings and evidence.

First. Were the libelants informed by the libelee of the order of the officials of the United States Ma-

rine Hospital Service against their going ashore at Honolulu?

Second. Was the refusal of the libelee to allow libelants to return on board the "Mongolia" at Honolulu, lawful or justifiable under the circumstances?

The steerage steward, called by the libelee, testified that he gave notice to all of the steerage passengers of the regulations against going ashore, before the "Mongolia" reached the dock, and that later he stationed himself at the gangway and again notified such steerage passengers as attempted to go down the gangplank, and he says specifically that he told Alfred Iverson, one of the libelants, while he was on deck and also while he was at the foot of the gangway. Iverson came down the gangway with three or four others and he told them to stop, that they could not go ashore and if they did they would have to stay, and that they went ashore in spite of him. He failed to identify any other of these men but said they were all "Barracouda" passengers. Although several witnesses were produced by the libelee to support the statements of the steward in regard to giving the notice that steerage passengers were not to go ashore, none of these witnesses were able to state that such notice was given to any of these libelants. The one who comes nearest to it is a witness by the name of Charles A. Miller, who was one of the crew of the "Barracouda" and must have

known all of these men by sight. He testified that he could not say that every one of the "Barracouda's" crew were present when the steward gave the notice but he did say that every one as he passed down the gangway was told and that he saw them all going ashore. Then he qualified this statement and said "I didn't see every one of them. I saw some of them going," and heard the steward at the gangway tell them not to go ashore. On cross-examination, he said in answer to the question, "Did you see Mr. Iverson go ashore"? "I see him on shore," on the dock. This evidence fails to support the steward's statements of notifying these men on board, or notifying them on the gangway. The steward, Mr. Trome, was naturally anxious to prove that he had done his duty in notifying all of the steerage passengers but it is evident that such notice was given in a careless and loose way and with such want of thoroughness that it is quite probable that he did not reach and did not notify every one of the steerage passengers. He admits leaving the gangway during the afternoon. Mr. Jansen, who was the quartermaster of the "Barracouda" was called by the libelee and he testified that he was not notified about going ashore either on board or at the gangway; that he reached the dock gate to go out and there was refused and notified for the first time. This proves quite conclusively that the steward's methods of giving notice were far from efficient. There was no

excuse for this. It certainly would have been a practical and easy matter in an important regulation of this kind that the steward should have taken the list of steerage passengers and looked up the persons corresponding to each name on the list, notified them and checked them off and if he had taken a waiter or some one acquainted with the steerage passengers as a witness with him, it would have made his work and the means of proving it, thorough and satisfactory. The weight of evidence is entirely on the side of libelants on this point and I find that they were not notified of the Marine Hospital regulations against going ashore. They gave their testimony with apparent readiness and frankness, and no weakness was developed in it by the skillful cross-examination that some of them went through. This conclusion is strengthened by the well-established circumstance that after the libelants went ashore they met the purser who scolded them for coming ashore and told them that unless they got back to the wharf by five o'clock and were fumigated the next day they would not be taken on board, whereupon they all went back but were refused admittance to the wharf. This failure on the part of the libelee to notify libelants of the orders of the Marine Hospital officials was negligence on the part of the former, and makes it liable for such injury as was suffered by the libelants as a consequence of such negligence.

The libelee still had a chance to save itself from anything more than slight or nominal damages, by saving the libelants from resulting injury. It still had it within its power to provide opportunities for libelants to perform the required quarantine regulations and return on board. The libelants were notified by the purser to be back at the wharf at five o'clock and be fumigated the next day. They all went back at about five o'clock and were refused admittance. This was in the afternoon. They wandered away and returned about nine o'clock in the evening and were again refused admittance and told to come the next morning at nine o'clock when by all the evidence on the matter of preparation by fumigation and the performance of a period of quarantine before arriving in San Francisco, it would have been too late.

It is explained by witnesses for libelee that Dr. Hobdy, the acting Head of the Marine Hospital Service, could not be found at five o'clock and that every attempt was made to do so over the telephone. It may be that the failure of the arrangements for giving the libelants opportunity for performing the necessary conditions for getting back to the ship were due more to the misfortune than the fault of the libelee, but the fact stands that these men, judging by their actions, desired to carry out such conditions and were reasonably attentive to the in-

structions given as to the times when they should present themselves at the wharf entrance for beginning the same, but failed to receive from the libelee proper attention and consequently did not have an opportunity of doing what was a necessary condition for continuing the voyage.

The libelee had still another opportunity of reducing the injury suffered by libelants to a small amount, and this was to provide for their transportation to San Francisco on another vessel and their necessary expenses until such vessel should sail. The libelants after the departure of the "Mongolia," called on the agent of the libelee to find out what could be done for them and were refused all assistance; they, or one of them applied for payment on account of wages, which was refused. Later in the day, Mr. Chillingworth, representing libelants, applied at the agent's office for their transportation to San Francisco and their expenses in Honolulu, the agent put them off saying he would see about it—what arrangement he could make, and would see him again. Chillingworth didn't call again, but Mr. Davis, who later became engaged in the matter, called, probably on Monday, two days later, and was told by the agents that libelants would be sent to San Francisco on the "China" and their expenses at the Sailors' Home paid. Later on libelee made a similar proposition in writing to libelants. These propositions were refused or ignored by libelants,

they having then become involved in obligations for their expenses and, by the time the last proposition was received, for legal advice.

These men, on Saturday, the day they were left behind by the sailing of the "Mongolia," were without resources. They had already experienced one night of privation without a place to sleep, their request for assistance from libelee had been refused. Under these circumstances they made arrangements with Chillingworth for their living expenses and cannot be blamed for doing so. On Monday or after, they entered into arrangements with Davis as their counsel to sue the libelee for damages, nor can they be blamed for this. The libelee by its negligence in allowing them to go ashore became liable for whatever damage was suffered by the libelants as the result of that negligence, which they did not contribute to. I do not think that they were responsible for any of the unfortunate experiences they went through as the result of their going ashore, from the "Mongolia." They were entitled to be treated with all the attention and consideration that their situation demanded exactly as if they had been cabin passengers, subject, of course, to the distinction made by the quarantine regulations.

As to the damages suffered by libelants in consequence of the negligence of the libelee in failing to notify them of the quarantine regulations against

their going ashore, they incurred expenses for board and lodging up to the time of the giving of their evidence, to the amount of one hundred and forty-two ($142.00) dollars, in the aggregate. Some of them lost clothes, one of them had further expenses for food in serving quarantine conditional on leaving by a later vessel. They became involved in the present litigation; they lost considerable time and suffered the natural mental distress consequent upon the uncertainty and hardships of their condition. I will sign decrees in each of the above cases awarding each libelant one hundred and fifty ($150.00) dollars and costs.

(Sgd.) SANFORD B. DOLE,
Judge, U. S. District Court.

April 30, 1906.

[Endorsed]: Nos. 62, 63, 64, 66 and 67. United States District Court, Territory of Hawaii. John Kennedy, et al., vs. Pacific Mail S. S. Co., Decision. Filed April 30, 1906. W. B. Maling, Clerk. By F. L. Hatch, Deputy Clerk.

From Minutes United States District Court, Hawaii, Vol. 4, page 109, Monday, April 30, 1906.

No. 62.

[Title of Court and Cause.]

Notice of Appeal.

This cause having heretofore been tried, argued and submitted, and the Court being now fully advised in the premises, this day rendered its decision herein ordering that judgment be entered in favor of said libelant in the sum of $150.00 and costs. To which decision libelee gave notice of appeal.

From Minutes United States District Court, Hawaii, Vol. 4, page 109, Monday, April 30, 1906.

No. 64.

[Title of Court and Cause.]

Notice of Appeal.

This cause having heretofore been tried, argued and submitted, and the Court being now fully advised in the premises, this day rendered its decision herein ordering that judgment be entered in favor of said libelant in the sum of $150.00 and costs. To which decision libelee gave notice of appeal.

From Minutes United States District Court, Hawaii, Vol. 4, page 108, Monday, April 30, 1906.

No. 63.

[Title of Court and Cause.]

Notice of Appeal.

This cause having heretofore been tried, argued and submitted, and the Court being now fully advised in the premises, this day rendered its decision herein ordering that judgment be entered in favor of said libelant in the sum of $150.00 and costs. To which decision libelee gave notice of appeal.

From Minutes United States District Court, Hawaii, Vol. 4, page 108, Monday, April 30, 1906.

No. 66.

[Title of Court and Cause.]

Notice of Appeal.

This cause having heretofore been tried, argued and submitted, and the Court being now fully advised in the premises, this day rendered its decision herein ordering that judgment be entered in favor of said libelant in the sum of $150.00 and costs. To which decision libelee gave notice of appeal.

From Minutes United States District Court, Hawaii, Vol. 4, page 108, Monday, April 30, 1906.

No. 67.

[Title of Court and Cause.]

Notice of Appeal.

This cause having heretofore been tried, argued and submitted. and the Court being now fully advised in the premises, this day rendered its decision herein ordering that judgment be entered in favor of said libelant in the sum of $150.00 and costs. To which decision libelee gave notice of appeal.

In the District Court of the United States, in and for the District and Territory of Hawaii.

IN ADMIRALTY—IN PERSONAM.

No. 62.

ALFRED IVERSON,

Libelant,

vs.

PACIFIC MAIL STEAMSHIP COMPANY (a Corporation),

Libelee.

Action for Damages for Breach of Contract.

Decree.

At the regular April, 1906, term of the District Court of the United States in and for the District and Territory of Hawaii, held at the courtroom of said

Court in the Judiciary Building situated at Honolulu in said District and Territory, on Monday, the 30th of April, in the year of our Lord one thousand nine hundred and six—Present, The Honorable SANFORD B. DOLE, District Judge.

The citation issued in the above-entitled cause having heretofore been duly returned served, and all persons in interest having duly appeared herein and having been represented by counsel, Geo. A. Davis, Esq., appearing for the above-named libelant, and Messrs. Kinney, McClanahan & Cooper, appearing for the above-named libelee, now, to wit, on this Monday, the 30th day of April, A. D. 1906, this above-entitled action having been heard upon the pleadings and proofs, both oral and documentary, pursuant to stipulation entered into, in open court, by counsel for the respective parties relative to the consolidation of similar actions for the purposes of trial, to wit, similar actions brought against the above-named libelee by John Kennedy, Thomas Roe, Patrick Murphy and George M. Morrisey, and after argument of the proctors for the respective parties, and due deliberation being had thereon, and said Court being fully advised in the premises, the said Court now finds that all the material allegations of the libel herein are true, and that the above-named libelant is entitled to recover herein; and the said Court having found and assessed the amount of the recovery of the above-named libelant at the sum of

one hundred and fifty and 00-100 ($150.00) dollars, in lawful money of the United States.

Now, therefore, upon motion of Geo. A. Davis, Esq., proctor herein for the above-named libelant, and in due consideration of the premises:

It is hereby ordered, adjudged and decreed, that the above-named libelant do have and recover of and from the above-named libelee, and that said libelee pay to said libelant, the full sum of one hundred and fifty and 00-100 ($150.00) dollars, in lawful money of the United States.

And it is hereby further ordered, adjudged and decreed that the above-named libelant have and recover of and from the above-named libelee, all of his costs and disbursements in this action, hereafter to be taxed.

Given, made and dated at Honolulu, District and Territory of Hawaii, this 2d day of May, A. D. 1906, nunc pro tunc as of April 30th, A. D. 1906.

SANFORD B. DOLE,
Judge, U. S. District Court, Hawaii.

[Endorsed]: Title of Court and Cause. Entered in Judg. Bk. 1, page 486, and Filed May 2, 1906. W. B. Maling, Clerk. By F. L. Hatch, Deputy Clerk.

In the District Court of the United States in and for the District and Territory of Hawaii.

IN ADMIRALTY—IN PERSONAM.

No. 64.

JOHN KENNEDY,

Libelant,

vs.

PACIFIC MAIL STEAMSHIP COMPANY (a Corporation),

Libelee.

Action for Damages for Breach of Contract.

Decree.

At the regular April, 1906, term of the District Court of the United States in and for the District and Territory of Hawaii, held at the courtroom of said court in the Judiciary Building situated at Honolulu in said District and Territory, on Monday, the 30th day of April, in the year of our Lord one thousand nine hundred and six—Present, The Honorable SANFORD B. DOLE, District Judge.

The citation issued in the above-entitled cause having heretofore been duly returned, served, and all persons in interest having duly appeared herein and having been represented by counsel, Geo. A. Davis, Esq., appearing for the above-named libelant, and Messrs. Kinney, McClanahan & Cooper appearing

for the above-named libelee, now, to wit, on this Monday the 30th day of April, A. D. 1906, this above-entitled action having been heard upon the pleadings and proofs, both oral and documentary, pursuant to stipulation entered into, in open court, by counsel for the respective parties relative to the consolidation of similar actions for the purposes of trial, to wit, similar actions brought against the above-named libelee by Alfred Iverson, Thomas Roe, Patrick Murphy and George M. Morrisey, and after argument of the proctors for the respective parties, and due deliberation being had thereon, and said court being fully advised in the premises, the said Court now finds that all the material allegations of the libel herein are true, and that the above-named libelant is entitled to recover herein; and the said Court having found and assessed the amount of the recovery of the above-named libelant at the sum of one hundred and fifty and 00-100 ($150.00) dollars, in lawful money of the United States.

Now, therefore, upon motion of Geo. A. Davis, Esq., proctor herein for the above-named libelant, and in due consideration of the premises:

It is hereby ordered, adjudged and decreed, that the above-named libelant do have and recover of and from the above-named libelee, and that said libelee do pay to said libelant, the full sum of one hundred and fifty and 00-100 ($150.00) dollars, in lawful money of the United States.

And it is hereby further ordered, adjudged and decreed that the above-named libelant do have and recover of and from the above-named libelee, all of his costs and disbursements in this action, hereafter to, be taxed.

Given, made and dated at Honolulu, District and Territory of Hawaii, this 2d day of May, A. D. 1906, nunc pro tunc as of April 30th, A. D. 1906.

SANFORD B. DOLE,
Judge, U. S. District Court, Hawaii.

[Endorsed]: Title of Court and Cause. Decree. Entered in Judg. Bk. 1, Page 490. Filed May 2, 1906. W. B. Maling, Clerk. By F. L. Hatch, Deputy Clerk.

In the District Court of the United States in and for the District and Territory of Hawaii.

IN ADMIRALTY—IN PERSONAM.

No. 63.

PATRICK MURPHY,

Libelant,

vs.

PACIFIC MAIL STEAMSHIP COMPANY (a Corporation),

Libelee.

Action for Damages for Breach of Contract.

Decree.

At the regular April, 1906, term of the District Court of the United States in and for the District and Territory of Hawaii, held at the courtroom of said court in the Judiciary Building situated at Honolulu in said District and Territory, on Monday, the 30th day of April, in the year of our Lord one thousand nine hundred and six—Present: The Honorable SANFORD B. DOLE, District Judge.

The citation issued in the above-entitled cause having heretofore been duly returned, served, and all persons in interest having duly appeared herein and having been represented by counsel, Geo. A. Davis, Esq., appearing for the above-named libelant, and Messrs. Kinney, McClanahan & Cooper, appearing for the above-named libelee, now, to wit, on this Monday, the 30th day of April, A. D. 1906, this above-entitled action having been heard upon the pleadings and proofs, both oral and documentary, pursuant to stipulation entered into in open court by counsel for the respective parties relative to the consolidation of similar actions for the purposes of trial, to wit, similar actions brought against the above-named libelee by John Kennedy, Alfred Iverson, Thomas Roe and George M. Morrissey, and after argument of the proctors for the respective parties, and due deliberation being had thereon, and the said Court being fully advised in the premises, the said Court now finds that all of the material al-

legations of the libel herein are true, and that the above-named libelant is entitled to recover herein; and the said Court having found and assessed the amount of the recovery of the above-named libelant at the sum of one hundred and fifty and 00-100 ($150.00) dollars, in lawful money of the United States.

Now, therefore, upon motion of Geo. A. Davis, Esq., proctor herein for the above-named libelant, and in due consideration of the premises,

It is hereby ordered, adjudged and decreed, that the above-named libelant do have and recover of and from the above-named libelee, and that said libelee do pay to said libelant, the full sum of one hundred and fifty and 00-100 ($150.00) dollars, in lawful money of the United States.

And it is hereby further ordered, adjudged and decreed that the above-named libelant do have and recover of and from the above-named libelee all of his costs and disbursements in this action, hereafter to be taxed.

Given, made and dated at Honolulu, District and Territory of Hawaii, this 2d day of May, A. D. 1906, nunc pro tunc as of April 30th, A. D. 1906.

SANFORD B. DOLE,
Judge, U. S. District Court, Hawaii.

[Endorsed]: Title of Court and Cause. Decree. Entered in Judg. Book, 1, Page 488. Filed May

2, 1906. W. B. Maling, Clerk. By F. L. Hatch, Deputy Clerk.

In the District Court of the United States in and for the District and Territory of Hawaii.

IN ADMIRALTY—IN PERSONAM.

No. 66.

THOMAS ROE,

Libelant,

vs.

PACIFIC MAIL STEAMSHIP COMPANY (a Corporation),

Libelee.

Action for Damages for Breach of Contract.

Decree.

At the regular April, 1906, term of the District Court of the United States in and for the District and Territory of Hawaii, held at the courtroom of said court in the Judiciary Building situated at Honolulu in said District and Territory, on Monday, the 30th day of April, in the year of our Lord one thousand nine hundred and six—Present, The Honorable SANFORD B. DOLE, District Judge.

The citation issued in the above-entitled cause having heretofore been duly returned served, and all persons in interest having duly appeared herein and having been represented by counsel, Geo. A. Davis,

Esq., appearing for the above-named libelant, and Messrs. Kinney, McClanahan & Cooper, appearing for the above-named libelee, now, to wit, on this Monday the 30th day of April, A. D. 1906, this above-entitled action having been heard upon the pleadings and proofs, both oral and documentary, pursuant to stipulation entered into in open court by counsel for the respective parties relative to the consolidation of similar actions for the purposes of trial, to wit, similar actions brought against the above-named libelee by John Kennedy, Alfred Iverson, Patrick Murphy and George M. Morrisey, and after argument of the proctors for the respective parties, and due deliberation being had thereon, and said court being fully advised in the premises, the said Court now finds that all the material allegations of the libel herein are true, and that the above-named libelant is entitled to recover herein; and the said Court having found and assessed the amount of the recovery of the above-named libelant at the sum of one hundred and fifty and 00-100 ($150.00) dollars, in lawful money of the United States.

Now, therefore, upon motion of Geo. A. Davis, Esq., proctor herein for the above-named libelant, and in due consideration of the premises:

It is hereby ordered, adjudged and decreed, that the above-named libelant do have and recover of and from the above-named libelee, and that said libelee do pay to said libelant, the full sum of one hundred

and fifty and 00-100 ($150.00) dollars, in lawful money of the United States.

And it is hereby further ordered, adjudged and decreed that the above-named libelant do have and recover of and from the above-named libelee, all of his costs and disbursements in this action, hereafter to be taxed.

Given, made and dated at Honolulu, District and Territory of Hawaii, this 2d day of May, A. D. 1906, nunc pro tunc as of April 30th, A. D. 1906.

SANFORD B. DOLE,
Judge, U. S. District Court, Hawaii.

[Endorsed]: Title of Court and Cause. Decree. Entered in Judg. Bk. 1, Page 492, and Filed May 2, 1906. W. B. Maling, Clerk. By F. L. Hatch, Deputy Clerk.

In the District Court of the United States in and for the District and Territory of Hawaii.

IN ADMIRALTY—IN PERSONAM.

No. 67.

GEORGE M. MORRISSEY,
Libelant,

vs.

PACIFIC MAIL STEAMSHIP COMPANY (a Corporation),
Libelee.

Action for Damages for Breach of Contract.

Decree.

At the regular April, 1906, term of the District Court of the United States in and for the District and Territory of Hawaii, held at the courtroom of said court in the Judiciary Building situated at Honolulu in said District and Territory, on Monday, the 30th day of April, in the year of our Lord one thousand nine hundred and six—Present, The Honorable SANFORD B. DOLE, District Judge:

The citation issued in the above-entitled cause having heretofore been duly returned served, and all persons in interest having duly appeared herein and having been represented by counsel, Geo. A. Davis, Esq., appearing for the above-named libelant, and Messrs. Kinney, McClanahan & Cooper, appearing for the above-named libelee, now, to wit, on this Monday, the 30th day of April, A. D. 1906, this above-entitled action having been heard upon the pleadings and proofs, both oral and documentary, pursuant to stipulation entered into, in open court, by counsel for the respective parties relative to the consolidation of similar actions for the purposes of trial, to wit, similar actions brought against the above-named libelee by Alfred Iverson, Thomas Roe, Patrick Murphy and John Kennedy, and after argument of the proctors for the respective parties, and due deliberation being had thereon, and said court being fully advised in the premises, the said

Court now finds that all the material allegations of the libel herein are true, and that the above-named libelant is entitled to recover herein; and the said Court having found and assessed the amount of the recovery of the above-named libelant at the sum of one hundred and fifty and 00-100 ($150.00) dollars, in lawful money of the United States.

Now, therefore, upon motion of Geo. A. Davis, Esq., proctor herein for the above-named libelant, and in due consideration of the premises:

It is hereby ordered, adjudged and decreed, that the above-named libelant do have and recover of and from the above-named libelee, and that said libelee do pay to said libelant, the full sum of one hundred and fifty and 00-100 ($150.00) dollars in lawful money of the United States.

And it is hereby further ordered, adjudged and decreed that the above-named libelant do have and recover of and from the above-named libelee all of his costs and disbursements in this action, hereinafter to be taxed.

Given, made and dated at Honolulu, District and Territory of Hawaii, this 2d day of May, A. D. 1906, nunc pro tunc as of April 30th A. D. 1906.

SANFORD B. DOLE,
Judge, U. S. District Court, Hawaii.

[Endorsed]: Title of Court and Cause. Decree. Entered in Judg. Bk. 1, page 494, and Filed May 2,

1906. W. B. Maling, Clerk. By F. L. Hatch, Deputy Clerk.

In the District Court of the United States for the Territory of Hawaii.

No. 62.

ALFRED IVERSON,

Plaintiff,

vs.

PACIFIC MAIL STEAMSHIP CO.,

Defendant.

Memorandum of Costs and Disbursements.

DISBURSEMENTS.

Marshal's fees	$ 4.06
Clerk's fees	5.25
Reporter's fees	61.70
Docket fee or attorney's fee	20.00
Fees commissioner	20.45

Mileage of Geo. A. Davis, Esq., atty. for libelants, A. Iverson, Pat. Murphy, John Kennedy, Thos. Roe & Geo. M. Morrissey, from Honolulu to San Francisco and return, on taking depositions of witnesses for the libelee on application of libelee before U. S. Commissioner,

Northern District of California at San Francisco, 2100 miles at 10c.....	210.00
	$321.46
Deducted	5.
	316.46

Allowed $205.00, expenses as per proof and evidence.

Taxed and allowed at $316.46, May 4, 1906.

W. B. MALING,
Clerk.

United States of America,
Territory of Hawaii,
City of Honolulu,—ss.

Geo. A. Davis being first sworn, deposes and says: That he is the attorney for the libelant in the above-entitled cause, and as such is better informed, relative to the above costs and disbursements, than the said libelant. That the items in the above memorandum contained are correct, to the best of this deponent's knowledge and belief, and that the said disbursements have been necessarily incurred in the said cause.

GEO. A. DAVIS.

Subscribed and sworn to before me, this 2d day of May, A. D. 1906.

[Seal] W. B. MALING,
Clerk District Court of United States, Territory of Hawaii.

To Kinney, McClanahan & Cooper, Esq., Proctors for Pacific Mail S. S. Co.,

You will please take notice that on Friday, the 4th day of May, A. D. 1906, at the hour of 3 o'clock, P. M., I will apply to the clerk of said Court to have the within memorandum of costs and disbursements taxed pursuant to the rule of said Court, in such case made and provided.

GEO. A. DAVIS,
Attorney for Libelant.

Service of within memorandum of costs and disbursements and receipt of a copy thereof acknowledged, this 2d day of May, A. D. 1906.

KINNEY, McCLANAHAN & COOPER,
Attorneys for Libelee.

[Endorsed]: Title of Court and Cause. Memorandum of Costs and Disbursements. Filed May 3, 1906. W. B. Maling, Clerk.

In the District Court of the United States, for the Territory of Hawaii.

No. 64.

JOHN KENNEDY,

Plaintiff.

vs.

PACIFIC MAIL STEAMSHIP CO.,

Defendant.

Memorandum of Costs and Disbursements.

DISBURSEMENTS.

Marshal's fees	$4.00
Clerk's fees	5.10
Reporter's fees	23.70
Docket fee	20.00
Fees commissioners	5.45
Witness' fees	
	$58.25

Taxed and allowed at $58.25, May 4, 1906.

W. B. MALING,
Clerk

United States of America,
Territory of Hawaii,
City of Honolulu,—ss.

Geo. A. Davis, being duly sworn, deposes and says: That he is the attorney for the libelant in the above-entitled cause, and as such is better informed, relative to the above costs and disbursements, than the said libelant. That the items in the above memorandum contained are correct, to the best of this deponent's knowledge and belief, and that the said disbursements have been necessarily incurred in the said cause.

GEO. A. DAVIS.

Subscribed and sworn to before me, this 2d day of May, A. D. 1906.

[Seal] W. B. MALING,

Clerk District Court of United States, Territory of Hawaii.

To Kinney, McClanahan & Cooper, Esqrs., Proctors for Pacific Mail S. S. Co.,

You will please take notice that on Friday, the 4th day of May, A. D. 1906, at the hour of 3 o'clock, P. M., I will apply to the clerk of said court to have the within memorandum of costs and disbursements taxed pursuant to the rule of said Court, in such case made and provided.

GEO. A. DAVIS,
Attorney for Libelant.

Service of within memorandum of costs and disbursements, and receipt of a copy thereof acknowledged, this 2d day of May, A. D. 1906.

KINNEY, McCLANAHAN & COOPER,
Attorney for Libelee.

[Endorsed]: Title of Court and Cause. Filed May 3, 1906. W. B. Maling, Clerk.

In the District Court of the United States, for the Territory of Hawaii.

No. 63.

PATRICK MURPHY,

Plaintiff,

vs.

PACIFIC MAIL STEAMSHIP CO.,

Defendant.

Memorandum of Costs and Disbursements.

DISBURSEMENTS.

Marshal's fees	$4.06
Clerk's fees	5.10
Reporter's fees	19.30
Docket fee	20.00
Fees Commissioner	5.45
Witness' fees—C. F. Chillingworth (not allowed)	1.50
	$55.41
	1.50
	$53.91

Taxed and allowed at $53.91 May 4, 1906.

W. B. MALING,

Clerk.

United States of America,
Territory of Hawaii,
City of Honolulu,—ss.

Geo. A. Davis, being duly sworn, deposes and says: That he is the attorney for the libelant in the above-entitled cause, and as such is better informed, relative to the above costs and disbursements, than the said libelant.

That the items in the above memorandum contained are correct, to the best of this deponent's knowledge and belief, and that the said disbursements have been necessarily incurred in the said cause.

GEO. A. DAVIS.

Subscribed and sworn to before me, this 2d day of May, A. D. 1906.

[Seal] W. B. MALING,
Clerk District Court of United States, Territory of Hawaii.

To Kinney, McClanahan & Cooper, Esqs., Proctors for Pacific Mail S. S. Co.,

You will please take notice that on Friday, the 4th day of May, A. D. 1906, at the hour of 3 o'clock P. M., I will apply to the clerk of said court to have the within memorandum of costs and disbursements taxed pursuant to the rule of said Court, in such case made and provided.

GEO. A. DAVIS,
Attorney for Libelee.

Service of within memorandum of costs and disbursements, and receipt of a copy thereof, acknowledged, this 2d day of May, A. D. 1906.

KINNEY, McCLANAHAN & COOPER,
Attorneys for Libelee.

[Endorsed]: Title of Court and Cause. Memorandum of Costs and Disbursements. Filed May 3d, 1906. W. B. Maling, Clerk.

In the District Court of the United States, for the Territory of Hawaii.

No. 66.

THOMAS ROE,
Plaintiff,

vs.

PACIFIC MAIL STEAMSHIP CO.,
Defendant.

Memorandum of Costs and Disbursements.

DISBURSEMENTS.

Marshal's fees	$4.00
Clerk's fees	5.10
Reporter's fees	10.30
Docket fee	20.00
Fees commissioners	5.45
Witness' fees	
	$44.85

Taxed and allowed at $44.85, May 4, 1906.

W. B. MALING,
Clerk.

United States of America,
Territory of Hawaii,
City of Honolulu,—ss.

Geo. A. Davis, being first duly sworn, deposes and says: That he is the attorney for the libelant in the above-entitled cause, and as such is better informed relative to the above costs and disbursements than the said libelant. That the items in the above memorandum contained are correct, to the best of this deponent's knowledge and belief, and that the said disbursements have been necessarily incurred in the said cause.

GEO. A. DAVIS.

Subscribed and sworn to before me, this 2d day of May, A. D. 1906.

[Seal] W. B. MALING,
Clerk District Court of United States, Territory of Hawaii.

To Kinney, McClanahan & Cooper, Esqrs., Proctors for Pacific Mail S. S. Co.,

You will please taken notice that on Friday, the 4th day of May, A. D. 1906, at the hour of 3 o'clock, P. M., I will apply to the clerk of said court to have the within memorandum of costs and disbursements taxed pursuant to the rule of said Court, in such case made and provided.

GEO. A. DAVIS,
Attorney for Libelant.

Service of within memorandum of costs and disbursements, and receipt of a copy thereof acknowledged, this 2d day of May, A. D. 1906.

KINNEY, McCLANAHAN & COOPER,
Attorney for P. M. S. S. Co.

[Endorsed]: Title of Court and Cause. Memorandum of Costs and Disbursements. Filed May 3, 1906. W. B. Maling, Clerk.

In the District Court of the United States, for the Territory of Hawaii.

No. 67.

GEORGE M. MORRISSEY,
Plaintiff,

vs.

PACIFIC MAIL STEAMSHIP CO.,
Libelant.

Memorandum of Costs and Disbursements.

DISBURSEMENTS.

Marshal's fees	$4.06
Clerk's fees	5.10
Reporter's fees	14.50
Docket fee	20.00
Fees commissioner	5.45
Witness' fees	
	$49.11

Taxed and allowed at $49.11, May 4, 1906.

W. B. MALING,
Clerk.

United States of America,
Territory of Hawaii,
City of Honolulu,—ss.

Geo. A. Davis, being duly sworn, deposes and says: That he is the attorney for the libelant in the above-entitled cause, and as such is better informed, relative to the above costs and disbursements, than the said libelant. That the items in the above memorandum contained are correct, to the best of this deponent's knowledge and belief, and that the said disbursements have been necessarily incurred in the said cause.

GEO. A. DAVIS.

Subscribed and sworn to before me, this 2d day of May, A. D. 1906.

[Seal] W. B. MALING,
Clerk District Court of United States, Territory of Hawaii.

To Kinney, McClanahan & Cooper, Esqrs., Proctors for Pacific Mail S. S. Co.,

You will please take notice that on Friday, the 4th day of May, A. D., 1906, at the hour of 3 o'clock, P. M., I will apply to the clerk of said court to have the within memorandum of costs and disbursements taxed pursuant to the rule of said Court, in such case made and provided.

GEO. A. DAVIS,
Attorney for Libelant.

Service of within memorandum of costs and disbursements, and receipt of a copy thereof acknowledged, this 2d day of May, A. D. 1906.

KINNEY, McCLANAHAN & COOPER,
Attorney for Libelee.

[Endorsed]: Title of Court and Cause. Memorandum of Costs and Disbursements. Filed May 3, 1906. W. B. Maling, Clerk.

In the District Court of the United States in and for the District and Territory of Hawaii.

April, A. D. 1906, Term.

IN ADMIRALTY.

No. 62.

ALFRED IVERSON,
Libelant,

vs.

PACIFIC MAIL STEAMSHIP COMPANY,
Libelee.

Motion to Retax Costs.

To the Honorable SANFORD B. DOLE, Judge of the United States District Court in and for the District and Territory of Hawaii.

Now comes the above-named libelee, the Pacific Mail Steamship Company, by its proctors, Kinney, McClanahan & Cooper, and moves for the retaxation

of costs heretofore taxed herein on Friday, the 4th day of May, A. D. 1906, by Walter B. Maling, clerk of the above-entitled court, on the grounds following:

That said above-entitled suit and the suits of John Kennedy, Thomas Roe, Patrick Murphy and George Morrissey against the Pacific Mail Steamship Company, numbered respectively 64, 66, 63 and 67, arose out of one and the same cause of action, and the evidence on which the decision of this Court was rendered on the 30th day of April, A. D. 1906, was, by stipulation, considered the evidence in all said suits. That there was but one hearing before the Court and but one decision covering all five of said suits.

That the costs and disbursements taxed by said clerk are excessive and without warrant of law.

That the disbursements taxed as "Docket Fee" is excessive and illegal, and has not been disbursed by said libelant or any one on his behalf, nor is libelant or libelee subject to liability therefor.

That the disbursement taxed as "mileage" of George A. Davis, Esq., is excessive and illegal, and has not been disbursed by libelant or any one on his behalf, nor is libelant subject to liability therefor. That said George A. Davis, as proctor for libelants John Kennedy, Thomas Roe, Patrick Murphy, George Morrissey and Alfred Iverson in the respective suits aforesaid against the libelee, Pacific Mail Steamship Company, conducted each and all of said suits on a contingent fee, and had no contractual re-

lations with said libelee, and if any expense was incurred in the matter of mileage, such expense was voluntary as well as unnecessary on the part of said Davis and was an expense which libelee is under no obligation to pay to said Davis or to any of said libelants.

That the libelee, the Pacific Mail Steamship Company, has already paid and expended the sum of $241.29 for clerk, marshal, commissioner and reporter's fees in the said suits as aforesaid respectively 64, 62, 66, 63 and 67.

This motion is based upon the affidavit of F. W. Klebahn attached hereto and made a part hereof, as well as the record including the decision of the Court filed on the 30th of April, 1906, the exhibits, stipulations, evidence, minutes of the clerk, and depositions. And also the evidence of George A. Davis taken before the clerk of this Court on the said 4th day of May, A. D. 1906, in the matter of the taxation of costs in said cases Nos. 64, 62, 66, 63 and 67.

Dated May 5th, 1906.

PACIFIC MAIL STEAMSHIP COMPANY,

By KINNEY, McCLANAHAN & COOPER,

E. B. M.,

Its Proctors.

Notice.

To George A. Davis, Esq., Proctor for Libelant.

Please take notice that the foregoing motion will be presented to the Honorable Sanford B. Dole, Judge of the United States District Court in and for the District and Territory of Hawaii, at the court-room of said Court in the city of Honolulu, Territory of Hawaii, on Tuesday, the 8th day of May, A. D. 1906, at 10 o'clock A. M. of said day, or as soon thereafter as counsel can be heard.

Dated May 5th, 1906.

KINNEY, McCLANAHAN & COOPER,

E. B. M.,

Proctors for Libelee.

In the District Court of the United States in and for the District and Territory of Hawaii.

April, A. D. 1906, Term.

IN ADMIRALTY.

No. 62.

ALFRED IVERSON,

Libelant,

vs.

PACIFIC MAIL STEAMSHIP COMPANY,

Libelee.

Affidavit of F. W. Klebahn.

Honolulu, Oahu,
Territory of Hawaii,—ss.

F. W. Klebahn, being first duly sworn, on oath deposes and says:

That H. Hackfeld & Company, Limited, are the agents for the Pacific Mail Steamship Company, libelee herein, and that affiant is an officer of said agent and having in immediate charge the business of said libelee as conducted in the Territory of Hawaii, and that affiant is familiar and has had to do with the above-entitled suit against the Pacific Mail Steamship Company; and in connection with the said suit and for other similar actions brought against the Pacific Mail Steamship Company by John Kennedy, Thomas Roe, Patrick Murphy and George Morrissey, respectively, this affiant for and on behalf of the libelee has paid to Walter B. Maling, clerk of the United States District Court in and for the District and Territory of Hawaii, as a deposit to cover costs the sum of $20.00 in each of said suits; has paid to E. R. Hendry, U. S. Marshal of said court, to cover costs incurred in said suits the sum of $23.24; has paid to Walter B. Maling, the duly appointed commissioner of said court to take certain evidence in said suit as costs the sum of $75.75; has paid to A. A. Deas, official reporter of

said court as reporter's fee in said suits $10.60, and an additional per diem fee of $31.70, making in all a total payment for costs and fees to the clerk, marshal, commissioner and reporter in said suits of $241.29.

F. W. KLEBAHN.

Subscribed and sworn to before me this 5th day of May, A. D. 1906.

[Seal] GUSSIE H. CLARK,
Notary Public, First Judicial Circuit.

[Endorsed]: Title of Court and Cause. Motion to Retax Costs and Aff. Due Service of the Within Motion and Receipt of a Copy Thereof, are Hereby Admitted, this —— day of May, 1906. ————, Attorney for Libelant. Filed May 7th, 1906. W. B. Maling, Clerk. By F. L. Hatch, Deputy.

In the District Court of the United States in and for the District and Territory of Hawaii.

April, A. D. 1906, Term.
IN ADMIRALTY.
No. 64.

JOHN KENNEDY,

Libelant,

vs.

PACIFIC MAIL STEAMSHIP COMPANY,

Libelee.

Motion to Retax Costs.

To the Honorable SANFORD B. DOLE, Judge of the United States District Court in and for the District and Territory of Hawaii.

Now comes the above-named libelee, the Pacific Mail Steamship Company, by its proctors, Kinney, McClanahan & Cooper, and moves for the retaxation of costs heretofore taxed herein on Friday, the 4th day of May, A. D. 1906, by Walter B. Maling, clerk of the above-entitled court, on the grounds following:

That said above-entitled suit and the suits of Alfred Iverson, Thomas Roe, Patrick Murphy and George Morrissey against the Pacific Mail Steamship Company, numbered respectively 62, 66, 63 and 67 arose out of one and the same cause of action, and the evidence on which the decision of this Court was rendered on the 30th day of April, A. D. 1906, was, by stipulation considered the evidence in all said suits. That there was but one hearing before the Court and but one decision covering all five of said suits.

That the costs and disbursements taxed by said clerk are excessive and without warrant of law.

That the disbursement taxed as "Docket Fee" is excessive and illegal, and has not been disbursed by libelant or any one on his behalf, nor is libelant or libelee subject to liability therefor.

This motion is based upon the affidavit of F. W. Klebahn attached hereto and made part hereof, as well as the record including the decision of the Court filed on the 30th of April 1906, the exhibits, stipulations, evidence, minutes of the clerk and depositions.

Dated May 5th, 1906.

PACIFIC MAIL STEAMSHIP COMPANY,

E. B. M.

By KINNEY, McCLANAHAN & COOPER,

Its Proctors.

Notice.

To George A. Davis, Esq., Proctor for Libelant.

Please take notice that the foregoing motion will be presented to the Honorable Sanford B. Dole, Judge of the United States District Court in and for the District and Territory of Hawaii, at the court-room of said court in the city of Honolulu, Territory of Hawaii, on Tuesday, the 8th day of May, A. D. 1906, at 10 o'clock A. M. of said day, or as soon thereafter as counsel can be heard.

Dated May 5th, 1906.

KINNEY, McCLANAHAN & COOPER,

E. B. M.

Proctors for Libelee.

In the District Court of the United States in and for the District and Territory of Hawaii.

April, A. D. 1906, Term.
IN ADMIRALTY.

No. 64.

JOHN KENNEDY,

Libelant,

vs.

PACIFIC MAIL STEAMSHIP COMPANY,

Libelee.

Affidavit of F. W. Klebahn.

Honolulu, Oahu,
Territory of Hawaii,—ss.

F. W. Klebahn, being first duly sworn, on oath deposes and says:

That H. Hackfeld & Company, Limited, are the agents for the Pacific Mail Steamship Company, libelee herein, and that affiant is an officer of said agent having in immediate charge the business of said libelee as conducted in the Territory of Hawaii, and that affiant is familiar and has had to do with the above-entitled suit against the Pacific Mail Steamship Company; that in connection with said suit and for other similar actions brought against the Pacific Mail Steamship Company by Alfred Iverson, Thomas Roe, Patrick Murphy and George Mor-

rissey respectively, this affiant for and on benalf of the libelee has paid to Walter B. Maling, clerk of the United States District Court in and for the District and Territory of Hawaii, as a deposit to cover costs the sum of $20.00 in each of said suits; has paid to E. R. Hendry, U. S. Marshal of said court, to cover costs incurred in said suits the sum of $23.24; has paid to Walter B. Maling, the duly appointed commissioner of said court to take certain evidence in said suits as costs the sum of $75.75; has paid to A. A. Deas, official reporter of said Court as reporter's fee in said suits $10.60 and an additional per diem fee of $31.70, making in all a total payment for costs and fees to the clerk, marshal, commissioner and reporter in said suits of $241.29.

F. W. KLEBAHN.

Subscribed and sworn to before me this 5th day of May, A. D. 1906.

[Seal] GUSSIE H. CLARK,
Notary Public, First Judicial Circuit.

[Endorsed]: Title of Court and Cause. Motion to Retax Costs and Aff. Due service of the within Motion and receipt of a copy thereof, are hereby admitted, this 2nd day of May, 1906. ————. Attorney for Libelant. Filed May 7th, 1906. W. B. Maling, Clerk. By F. L. Hatch, Deputy.

In the District Court of the United States in and for the District and Territory of Hawaii.

April, A. D. 1906, Term.

IN ADMIRALTY.

No. 63.

PATRICK MURPHY,

Libelant,

vs.

PACIFIC MAIL STEAMSHIP COMPANY,

Libelee.

Motion to Retax Costs.

To the Honorable SANFORD B. DOLE, Judge of the United States District Court in and for the District and Territory of Hawaii.

Now comes the above-named libelee, the Pacific Mail Steamship Company, by its proctors, Kinney, McClanahan & Cooper, and moves for the retaxation of costs heretofore taxed herein on Friday, the 4th day of May, A. D. 1906, by Walter B. Maling, Clerk of the above-entitled court, on the grounds following:

That said above-entitled suit and the suits of John Kennedy, Alfred Iverson, Thomas Roe and George Morrissey against the Pacific Mail Steamship Company, numbered respectively 64, 62, 66 and 67, arose out of one and the same cause of action, and the evidence on which the decision of this court was rendered on the 30th day of April, A. D. 1906, was, by

stipulation considered the evidence in all said suits. That there was but one hearing before the Court and but one decision covering all five of said suits.

That the costs and disbursements taxed by said clerk are excessive and without warrant of law.

That the disbursement taxed as "Docket Fee" is excessive and illegal and has not been disbursed by libelant or any one on his behalf, nor is libelant or libelee subject to liability therefor.

This motion is based upon the affidavit of F. W. Klebahn attached hereto and made part hereof, as well as the record including the decision of the Court filed on the 30th of April, 1906, the exhibits, stipulations, evidence, minutes of the clerk and depositions.

Dated May 5th, 1906.

PACIFIC MAIL STEAMSHIP COMPANY,

E. B. M.

By KINNEY, McCLANAHAN & COOPER,

Its Proctors.

Notice.

To George A. Davis, Esq., Proctor for Libelant.

Please take notice that the foregoing motion will be presented to the Honorable Sanford B. Dole, Judge of the United States District Court in and for the District and Territory of Hawaii, at the court-room of said court in the city of Honolulu, Territory of Hawaii, on Tuesday, the 8th day of May, A. D.

1906, at 10 o'clock A. M. of said day, or as soon thereafter as counsel can be heard.

Dated May 5th, 1906.

KINNEY, McCLANAHAN & COOPER,
E. B. M.
Proctors for Libelee.

In the District Court of the United States in and for the District and Territory of Hawaii.

April, A. D. 1906, Term.

IN ADMIRALTY.

No. 63.

PATRICK MURPHY,
Libelant,

vs.

PACIFIC MAIL STEAMSHIP COMPANY,
Libelee.

Affidavit of F. W. Klebahn.

Honolulu, Oahu,
Territory of Hawaii,—ss.

F. W. Klebahn, being first sworn, on oath deposes and says:

That H. Hackfeld & Company, Limited, are the agents for the Pacific Mail Steamship Company, libelee herein, and that affiant is an officer of said agent having in immediate charge the business of said libelee as conducted in the Territory of Hawaii,

and that affiant is familiar and has had to do with the above-entitled suit against the Pacific Mail Steamship Company; that in connection with said suit and for other similar actions brought against the Pacific Mail Steamship Company by John Kennedy, Alfred Iverson, Thomas Roe and George Morrissey respectively, this affiant for and on behalf of the libelee has paid to Walter B. Maling, clerk of the United States District Court in and for the District and Territory of Hawaii, as a deposit to cover costs the sum of $20.00 in each of said suits; has paid to E. R. Hendry, U. S. Marshal of said Court, to cover costs incurred in said suits the sum of $23.24; has paid to Walter B. Maling, the duly appointed Commissioner of said court to take certain evidence in said suits as costs the sum of $75.75; has paid to A. A. Deas, official reporter of said Court as reporter's fee in said suits $10.60 and an additionel per diem fee of $31.70, making in all a total payment for costs and fees to the clerk, marshal, commissioner and reporter in said suits of $241.29.

F. W. KLEBAHN.

Subscribed and sworn to before me this 5th day of May, A. D. 1906.

[Seal] GUSSIE H. CLARK,
Notary Public First Judicial Circuit.

[Endorsed]: Title of Court and Cause. Motion to Retax Costs and Aff. Due service of the within motion, retax costs and receipt of a copy thereof, are

hereby admitted, this 7th day of May, 1906. Geo. A. Davis, Attorney for Libelant. Filed May 7th, 1906. W. B. Maling, Clerk. By F. L. Hatch, Deputy Clerk.

In the District Court of the United States in and for the District and Territory of Hawaii.

April, A. D. 1906, Term.

IN ADMIRALTY.

No. 66.

THOMAS ROE,

Libelant,

vs.

PACIFIC MAIL STEAMSHIP COMPANY,

Libelee.

Motion to Retax Costs.

To the Honorable SANFORD B. DOLE, Judge of the United States District Court in and for the District and Territory of Hawaii.

Now comes the above-named libelee, the Pacific Mail Steamship Company, by its proctors, Kinney, McClanahan & Cooper, and moves for a retaxation of costs heretofore taxed herein on Friday, the 4th day of May, A. D. 1906, by Walter B. Maling, clerk of the above-entitled court, on the grounds following:

That said above-entitled suit and the suits of John Kennedy, Alfred Iverson, Patrick Murphy and Geo. Morrissey against the Pacific Mail Steamship Company, numbered respectively 64, 62, 63 and 67, arose

out of one and the same cause of action, and the evidence on which the decision of this Court was rendered on the 30th day of April, A. D. 1906, was, by stipulation considered the evidence in all said suits. That there was but one hearing before the Court and but one decision covering all five of said suits.

That the costs and disbursements taxed by said clerk are excessive and without warrant of law.

That the disbursements taxed as "Docket Fee" is excessive and illegal and has not been disbursed by libelant or any one on his behalf, nor is libelant or libelee subject to liability therefor.

This motion is based upon the affidavit of F. W. Klebahn attached hereto and made part hereof, as well as the record including the decision of the Court filed on the 30th of April, 1906, the exhibits, stipulations, evidence, minutes of the clerk and depositions.

Dated May 5th, 1906.

PACIFIC MAIL STEAMSHIP COMPANY,

E. B. M.

By KINNEY, McCLANAHAN & COOPER,

Its Proctors.

Notice.

To George A. Davis, Esq., Proctor for Libelant.

Please take notice that the foregoing motion will be presented to the Honorable Sanford B. Dole, Judge of the United States District Court in and for the District and Territory of Hawaii, at the court-

room of said Court in the city of Honolulu, Territory of Hawaii, on Tuesday, the 8th day of May, A. D. 1906, at 10 o'clock A. M. of said day, or as soon thereafter as counsel can be heard.

Dated May 5th, 1906.

KINNEY, McCLANAHAN & COOPER,
E. B. M.,
Proctors for Libelee.

In the District Court of the United States in and for the District and Territory of Hawaii.

April, A. D. 1906, Term.
IN ADMIRALTY.

No. 66.

THOMAS ROE,
Libelant,

vs.

PACIFIC MAIL STEAMSHIP COMPANY,
Libelee.

Affidavit of F. W. Klebahn.

Honolulu, Oahu,
Territory of Hawaii,—ss.

F. W. Klebahn, being first duly sworn, on oath deposes and says:

That H. Hackfeld & Company, Limited, are the agents for the Pacific Mail Steamship Company, li-

belee herein, and that affiant is an officer of said agent, having in immediate charge the business of said libelee as conducted in the Territory of Hawaii, and that affiant is familiar and has had to do with the above-entitled suit against the Pacific Mail Steamship Company; that in connection with said suit and for other similar actions brought against the Pacific Mail Steamship Company by John Kennedy, Alfred Iverson, Patrick Murphy and George Morrissey respectively, this affiant for and on behalf of the libelee has paid to Walter B. Maling, clerk of the United States District Court in and for the District and Territory of Hawaii, as a deposit to cover costs the sum of $20.00 in each of said suits; has paid to E. R. Hendry, U. S. Marshal of said Court, to cover costs incurred in said suits the sum of $23.24; has paid to Walter B. Maling, the duly appointed commissioner of said court to take certain evidence in said suits as costs the sum of $75.75; has paid to A. A. Deas, official reporter of said court, as reporter's fee in said suits $10.60 and an additional per diem fee of $31.70, making in all a total payment for costs and fees to the clerk, marshal, commissioner and reporter in said suits of $241.29.

F. W. KLEBAHN.

Subscribed and sworn to before me this 5th day of May, A. D. 1906.

[Seal] GUSSIE H. CLARK,

Notary Public First Judicial Circuit.

[Endorsed]: Title of Court and Cause. Motion to Retax Costs and Aff. Due service of the within motion and receipt of a copy thereof, are hereby admitted, this —— day of May, 1906. ————, Attorney for Libelant. Filed May 7th, 1906. W. B. Maling, Clerk. By F. L. Hatch, Deputy.

In the District Court of the United States in and for the District and Territory of Hawaii.

April, A. D., 1906, Term.
IN ADMIRALTY.

No. 67.

GEORGE MORRISSEY,
Libelant,

vs.

PACIFIC MAIL STEAMSHIP COMPANY,
Libelee.

Motion to Retax Costs.

To the Honorable SANFORD B. DOLE, Judge of the United States District Court in and for the District and Territory of Hawaii.

Now comes the above-named libelee, the Pacific Mail Steamship Company, by its proctors, Kinney, McClanahan & Cooper, and moves for the retaxation of costs heretofore taxed herein on Friday, the 4th day of May, A. D. 1906, by Walter B. Maling, clerk of the above-entitled court, on the grounds following:

That said above-entitled suit and the suits of John Kennedy, Alfred Iverson, Thomas Roe and Patrick Murphy against the Pacific Mail Steamship Company, numbered respectively 64, 62, 66, 63 and 67, arose out of one and the same cause of action, and the evidence on which the decision of this Court was rendered on the 30th day of April, A. D. 1906, was, by stipulation, considered the evidence in all said suits. That there was but one hearing before the Court and but one decision covering all five of said suits.

That the costs and disbursements taxed by said clerk are excessive and without warrant of law.

That the disbursements taxed as "Docket Fee" is excessive and illegal, and has not been disbursed by libelant or any one on his behalf, nor is libelant or libelee subject to liability therefor.

This motion is based upon the affidavit of F. W. Klebahn attached hereto and made part hereof, as well as the record including the decision of the Court filed on the 30th of April, 1906, the exhibits, stipulations, evidence, minutes of the clerk and depositions.

Dated May 5th, 1906.

PACIFIC MAIL STEAMSHIP COMPANY,

E. B. M.,

By KINNEY, McCLANAHAN & COOPER,

Its Proctors.

Notice.

To George A. Davis, Esq., Proctor for Libelant.

Please take notice that the foregoing motion will be presented to the Honorable Sanford B. Dole, Judge of the United States District Court in and for the District and Territory of Hawaii, at the court-room of said Court in the City of Honolulu, Territory of Hawaii, on Tuesday, the 8th day of May A. D. 1906, at 10 o'clock A. M. of said day, or as soon thereafter as counsel can be heard.

Dated May 5th, 1906.

KINNEY, McCLANAHAN & COOPER,
E. B. M.,
Proctors for Libelee.

In the District Court of the United States in and for the District and Territory of Hawaii.

April, A. D. 1906, Term.

IN ADMIRALTY.

No. 67.

GEORGE MORRISSEY,
Libelant,

vs.

PACIFIC MAIL STEAMSHIP COMPANY,
Libelee.

Affidavit of F. W. Klebahn.

Honolulu, Oahu,
Territory of Hawaii,—ss.

F. W. Klebahn, being first duly sworn, on oath, deposes and says:

That H. Hackfeld & Company, Limited, are the agents for the Pacific Mail Steamship Company, libelee herein, and that affiant is an officer of said agent having in immediate charge the business of said libelee as conducted in the Territory of Hawaii, and that affiant is familiar and has had to do with the above-entitled suit against the Pacific Mail Steamship Company; that in connection with said suit and for other similar actions brought against the Pacific Mail Steamship Company by John Kennedy, Alfred Iverson, Thomas Roe and Patrick Murphy respectively, this affiant for and on behalf of the libelee, has paid to Walter B. Maling, clerk of the United States District Court in and for the District and Territory of Hawaii, as a deposit to cover costs the sum of $20.00 in each of said suits; has paid to E. R. Hendry, U. S. Marshal of said Court, to cover costs incurred in said suits the sum of $23.24; has paid to Walter B. Maling, the duly appointed commissioner of said Court to take certain evidence in said suits as costs the sum of $75.75; has paid to A. A. Deas, official reporter of said Court as reporter's fee in said suits

$10.60 and an additional per diem fee of $31.70, making in all a total payment for costs and fees to the clerk, marshal, commissioner and reporter in said suits of $241.29.

F. W. KLEBAHN.

Subscribed and sworn to before me this 5th day of May, A. D. 1906.

[Seal] GUSSIE H. CLARK,
Notary Public First Judicial Circuit.

[Endorsed]: Title of Court and Cause. Motion to Retax Costs and Aff. Due Service of the Within Motion and Receipt of a Copy Thereof, are Hereby Admitted this —— day of May, 1906. ————, Attorney for Libelant. Filed May 7th, 1906. W. B. Maling, Clerk. By F. L. Hatch, Deputy.

In the United States District Court for the Territory of Hawaii.

April, A. D. 1906, Term.

Nos. ———.

JOHN KENNEDY, et al.,

vs.

PACIFIC MAIL STEAMSHIP CO.

Decision on Motion to Retax Costs.

The cost bill is amended by deducting the docket fee in four of the cases. The cases having been con-

solidated for trial and the same evidence applying to all of the cases and the issue in all of the cases being similar, they might well have been brought together in one libel.

The State of Missouri, 76 Fed. Rep. 376.

Barron v. The Mount Eden, 87 Id. 483.

Two hundred and five dollars is allowed on the cost bill for mileage of G. A. Davis, attorney for libelants, for his expenses to San Francisco for the hearing of depositions in the case, and his expenses while in San Francisco in such work.

I feel that his trip under the circumstances was reasonably necessary on behalf of libelants, and although this item is objected to by the counsel for the libelee, I think the authorities justify its retention. Of course it can only be charged once against the costs of all the cases.

With the change herein made, the cost bill is otherwise confirmed.

May 12, 1906.

SANFORD B. DOLE,
Judge, U. S. District Court.

[Endorsed]: Title of Court and Cause. Decision on Motion to Retax Costs in Numbers 62, 63, 64, 66, 67. Filed May 12th, A. D. 1906. W. B. Maling, Clerk.

In the District Court of the United States in and for the District and Territory of Hawaii.

April, A. D. 1906, Term.

IN ADMIRALTY—IN PERSONAM.

ALFRED IVERSON,
Libelant,
vs.
PACIFIC MAIL STEAMSHIP COMPANY,
Libelee.

JOHN KENNEDY,
Libelant,
vs.
PACIFIC MAIL STEAMSHIP COMPANY,
Libelee.

PATRICK MURPHY,
Libelant,
vs.
PACIFIC MAIL STEAMSHIP COMPANY,
Libelee.

THOMAS ROE,
Libelant,
vs.
PACIFIC MAIL STEAMSHIP COMPANY,
Libelee.

GEORGE MORRISSEY,
Libelant,
vs.
PACIFIC MAIL STEAMSHIP COMPANY,
Libelee.

Motion for Consolidation.

Now come Kinney, McClanahan & Cooper, proctors for the above-named libelee in each of the above-entitled causes of action, and move for an order consolidating said suits or causes of action for the purpose of future proceedings herein by way of appeal in each of said suits from the final decree entered herein on the 2d day of May, A. D. 1906, to the United States Circuit Court of Appeals for the Ninth Circuit.

This motion is based upon the record herein and in each of said causes, as well as upon the affidavit of E. B. McClanahan annexed hereto and forming part hereof.

Dated May 9, 1906.

KINNEY, McCLANAHAN & COOPER,

E. B. M.

Notice.

To George A. Davis, Esq., Proctor for the Respective Libelants:

Please take notice that the foregoing motion will be presented to the Honorable Sanford B. Dole, Judge of the United States District Court in and for the District and Territory of Hawaii, at the court-room of said Court in the Judiciary Building, Honolulu, Territory of Hawaii, on Thursday, the 10th day

of May, A. D. 1906, at 2 o'clock A. M. of said day, or as soon thereafter as proctor can be heard.

Dated May 9, 1906.

KINNEY, McCLANAHAN & COOPER,
E. B. M.,
Proctors for Libelee.

In the District Court of the United States in and for the District and Territory of Hawaii.

April, A. D. 1906, Term.

IN ADMIRALTY—IN PERSONAM.

ALFRED IVERSON,
Libelant,

vs.

PACIFIC MAIL STEAMSHIP COMPANY,
Libelee.

JOHN KENNEDY,
Libelant,

vs.

PACIFIC MAIL STEAMSHIP COMPANY,
Libelee.

PATRICK MURPHY,
Libelant,

vs.

PACIFIC MAIL STEAMSHIP COMPANY,
Libelee.

THOMAS ROE,

Libelant,

vs.

PACIFIC MAIL STEAMSHIP COMPANY,

Libelee.

GEORGE MORRISSEY,

Libelant,

vs.

PACIFIC MAIL STEAMSHIP COMPANY,

Libelee.

Affidavit of E. B. McClanahan.

Honolulu, Oahu,

Territory of Hawaii,—ss.

E. B. McClanahan, being first duly sworn, on oath deposes and says:

That he is a member of the firm of Kinney, McClanahan & Cooper, proctors for the above-named libelee in each of the above-entitled suits; that if said suits be consolidated by order of this Honorable Court for the purpose of appeal to the United States Circuit Court of Appeals for the Ninth Circuit, unnecessary costs and unnecessary delay in the administration of justice will be avoided.

E. B. McCLANAHAN.

Subscribed and sworn to before me this 9th day of May, A. D. 1906.

[Seal] GUSSIE H. CLARK,
Notary Public First Judicial Circuit.

[Endorsed]: Title of Court and Cause. Motion for Consolidation. Filed May 9, 1906. W. B. Maling, Clerk. By F. L. Hatch, Deputy.

Due service of the within motion and receipt of a copy thereof are hereby admitted this 9th day of May, 1906.

GEO. A. DAVIS,
Attorney for Libelants.

From Minutes United States District Court, Vol. 4, page 122, Friday, May 11th, 1906.

Nos. 62, 63, 64, 66, 67.

[Title of Court and Cause.]

Order Allowing Appeal.

Now comes the libelee in the above causes and moves the Court that said causes be consolidated for the purposes of Appeal, which motion is denied, the same being in the opinion of the Court unnecessary.

And afterwards and on the same day came the said libelee, by its counsel, Messrs. Kinney, McClanahan & Derby, and presents its assignment of errors, petition for allowance of appeal and bond on appeal, and

it is ordered that said appeal be and is hereby allowed.

In the District Court of the United States in and for the District and Territory of Hawaii.

April, A. D., 1906, Term.

IN ADMIRALTY—IN PERSONAM.

No. 62.

Consolidated for Purposes of Trial and Appeal.

ALFRED IVERSON,

Libelant-Appellee,

vs.

PACIFIC MAIL STEAMSHIP COMPANY,

Libelee-Appellant.

No. 64.

JOHN KENNEDY,

Libelant-Appellee,

vs.

PACIFIC MAIL STEAMSHIP COMPANY,

Libelee-Appellant.

No. 63.

PATRICK MURPHY,

Libelant-Appellee,

vs.

PACIFIC MAIL STEAMSHIP COMPANY,

Libelee-Appellant.

No. 66.

THOMAS ROE,

Libelant-Appellee,

vs.

PACIFIC MAIL STEAMSHIP COMPANY,

Libelee-Appellant.

No. 67.

GEORGE MORRISSEY,

Libelant-Appellee,

vs.

PACIFIC MAIL STEAMSHIP COMPANY,

Libelee-Appellant.

Order as to Taxation of Costs.

Upon motion of the libelee filed herein on the —— day of May, A. D. 1906, praying for the retaxation of costs in the above-entitled actions, and after due hearing thereon, it is ordered that the item of $205.00 taxed in the Kennedy suit as expenses of George A. Davis, Esq., is affirmed and allowed as well as the docket fee of $20.00.

The item of $20 docket fee in each of the remaining four suits is disallowed.

All other items allowed as taxed by clerk.

Dated Honolulu, Territory of Hawaii, May 12, 1906.

(Signed) SANFORD B. DOLE,

Judge of the United States District Court in and for the District and Territory of Hawaii.

[Endorsed]: Title of Court and Cause. Order. Filed May 12th, 1906. W. B. Maling, Clerk. By E. L. Hatch, Deputy Clerk.

In the District Court of the United States in and for the District and Territory of Hawaii.

April, A. D., 1906, Term.

IN ADMIRALTY—IN PERSONAM.

Consolidated for the Purposes of Trial and Appeal.

No. 62.

ALFRED IVERSON,

Libelant,

vs.

PACIFIC MAIL STEAMSHIP COMPANY,

Libelee.

No. 64.

JOHN KENNEDY,

Libelant,

vs.

PACIFIC MAIL STEAMSHIP COMPANY,

Libelee.

No. 63.

PATRICK MURPHY,

Libelant,

vs.

PACIFIC MAIL STEAMSHIP COMPANY,

Libelee.

No. 66.

THOMAS ROE,

Libelant,

vs.

PACIFIC MAIL STEAMSHIP COMPANY,

Libelee.

No. 67.

GEORGE MORRISSEY,

Libelant,

vs.

PACIFIC MAIL STEAMSHIP COMPANY,

Libelee.

Notice of Appeal.

To the Above-named Libelants and George A. Davis Esq., their Proctor.

You and each of you are hereby notified that the above-named libelee intends to and does hereby appeal from the final decrees of the United States District Court for the District and Territory of Hawaii entered in the above-entitled suits on the 2d day of May, A. D. 1906, to the United States Circuit Court of Appeals for the Ninth Circuit.

Dated, Honolulu, Territory of Hawaii, this 11th day of May, A. D., 1906.

PACIFIC MAIL STEAMSHIP COMPANY,

Libelee.

By KINNEY, McCLANAHAN & DERBY,

Its Proctors.

[Endorsed]: Title of Court and Cause. Notice of Appeal. Filed May 11, 1906. W. B. Maling, Clerk. By F. L. Hatch, Deputy Clerk.

In the District Court of the United States in and for the District and Territory of Hawaii.

April, A. D. 1906, Term.

IN ADMIRALTY—IN PERSONAM.

Consolidated for Purposes of Trial and Appeal.

No. 62.

ALFRED IVERSON,

Libelant-Appellee,

vs.

PACIFIC MAIL STEAMSHIP COMPANY,

Libelee-Appellant.

No. 64.

JOHN KENNEDY,

Libelant-Appellee,

vs.

PACIFIC MAIL STEAMSHIP COMPANY,

Libelee-Appellant.

No. 63.

PATRICK MURPHY,

Libelant-Appellee,

vs.

PACIFIC MAIL STEAMSHIP COMPANY,

Libelee-Appellant.

No. 66.

THOMAS ROE,

Libelant-Appellee,

vs.

PACIFIC MAIL STEAMSHIP COMPANY,

Libelee-Appellant.

No. 67.

GEORGE MORRISSEY,

Libelant-Appellee,

vs.

PACIFIC MAIL STEAMSHIP COMPANY,

Libelee-Appellant.

Notice.

To the Above-named Libelants-Appellees, and to their Proctor George A. Davis, Esq.,

You and each of you will please take notice hereby that on Friday, the 11th day of May, A. D. 1906, in the above-entitled Court in the Judiciary Building in the city of Honolulu in said District, at the opening of the court on said day, or as soon thereafter as counsel can be heard, the above-named libelee-appellant will perfect its appeal in the above-entitled suits and present to said Court for allowance its petition on appeal herein, together with its notice of appeal, assignment of error, bond on appeal and citation herein, and such other papers as it may be advised to present.

Dated, Honolulu, Territory of Hawaii, May 11th, 1906.

PACIFIC MAIL STEAMSHIP COMPANY,

By KINNEY, McCLANAHAN & DERBY,

Its Proctors.

Due service of the above notice and receipt of a copy thereof are hereby admitted this 11th day of May, A. D. 1906.

GEO. A. DAVIS,

Proctor for Libelants-Appellees.

[Endorsed]: Title of Court and Cause. Notice. Filed May 11th, 1906. W. B. Maling, Clerk. By F. L. Hatch, Deputy Clerk.

In the District Court of the United States in and for the District and Territory of Hawaii.

April, A. D., 1906, Term.

IN ADMIRALTY—IN PERSONAM.

Consolidated for Purposes of Trial and Appeal.

No. 62.

ALFRED IVERSON,

Libelant-Appellee,

vs.

PACIFIC MAIL STEAMSHIP COMPANY,

Libelee-Appellant.

No. 64.

JOHN KENNEDY,

Libelant-Appellee,

vs.

PACIFIC MAIL STEAMSHIP COMPANY,

Libelee-Appellant.

No. 63.

PATRICK MURPHY,

Libelant-Appellee,

vs.

PACIFIC MAIL STEAMSHIP COMPANY,

Libelee-Appellant.

No. 66.

THOMAS ROE,

Libelant-Appellee,

vs.

PACIFIC MAIL STEAMSHIP COMPANY,

Libelee-Appellant.

No. 67.

GEORGE MORRISSEY,

Libelant-Appellee,

vs.

PACIFIC MAIL STEAMSHIP COMPANY,

Libelee-Appellant.

Petition on Appeal.

The above-named libelee-appellant conceiving itself aggrieved by the final decrees made and entered in

the above-entitled causes on the 2d day of May, A. D. 1906, wherein and whereby it was ordered, adjudged and decreed in each, that the libelant in said respective causes do each have and recover of and from the libelee, and that said libelee pay to each of said libelants the sum of $150.00, together with each of said libelant's costs and disbursements; does hereby appeal to the United States Circuit Court of Appeals for the Ninth Circuit from said decrees and each of them for the reasons set forth in the assignment of errors filed herewith; and said libelee-appellant prays that this its petition for its said appeal may be allowed and that a transcript of the record, proceedings and papers upon which said decrees and each of them were made, duly authenticated, may be sent to the United States Circuit Court of Appeals for the Ninth Circuit. And libelee-appellant further prays that one bond on appeal be fixed by order of this Honorable Court, the same to act as a supersedeas bond, and also as a bond for costs and damages on appeal to cover all of said causes.

Dated, Honolulu, Territory of Hawaii, May 11, 1906.

PACIFIC MAIL STEAMSHIP COMPANY,

Libelee-Appellant,

By KINNEY, McCLANAHAN & DERBY,

Its Proctors.

Order Allowing Appeal.

Upon the foregoing petition of the Pacific Mail Steamship Company, libelee-appellant, praying for the allowance of an appeal in the above-entitled causes to the United States Circuit Court of Appeals for the Ninth Circuit, it appearing to the Court that said libelee-appellant has duly filed its assignment of errors as required by law by the rules of said United States Circuit Court of Appeals for the Ninth Circuit;

Now, therefore, it is hereby ordered that said appeal be and the same is hereby allowed as prayed for;

And it is hereby further ordered that said libelee-appellant may give one joint and several bond on appeal in a sum aggregating $1,750.00 to cover costs and damages on appeal in all of said causes of action, which said bond upon being duly approved and filed shall be effective as a bond for costs and damages on such appeal, and as a supersedeas bond as well.

Dated, Honolulu, Territory of Hawaii, May 11, 1906.

SANFORD B. DOLE,

Judge of the United States District Court in and for the District and Territory of Hawaii.

[Endorsed]: Title of Court and Cause. Petition on Appeal and Order Allowing Appeal. Filed May 11th, 1906. W. B. Maling, Clerk. By F. L. Hatch, Deputy Clerk.

In the District Court of the United States in and for the District and Territory of Hawaii.

April, A. D. 1906, Term.

IN ADMIRALTY—IN PERSONAM.

Consolidated for Purpose of Trial and Appeal.

No. 62.

ALFRED IVERSON,
Libelant-Appellee,

vs.

PACIFIC MAIL STEAMSHIP COMPANY,
Libelee-Appellant.

No. 64.

JOHN KENNEDY,
Libelant-Appellee,

vs.

PACIFIC MAIL STEAMSHIP COMPANY,
Libelee-Appellant.

No. 63.

PATRICK MURPHY,
Libelant-Appellee,

vs.

PACIFIC MAIL STEAMSHIP COMPANY,
Libelee-Appellant.

No. 66.

THOMAS ROE,
Libelant-Appellee,

vs.

PACIFIC MAIL STEAMSHIP COMPANY,
Libelee-Appellant.

No. 67.

GEORGE MORRISSEY,

Libelant-Appellee,

vs.

PACIFIC MAIL STEAMSHIP COMPANY,

Libelee-Appellant.

Assignment of Errors.

Now comes the above-named Pacific Mail Steamship Company, libelee-appellant herein, and says that in the record and proceedings in the above-entitled causes there is manifest error, and said libelee-appellant now makes, files and presents the following assignment of errors upon which it will rely, as follows, to wit:

1.

The Court erred in finding that all the material allegations in the respective libels herein are true.

2.

The Court erred in holding that upon the facts appearing on the trial of said causes, there was a definite undertaking on the part of the libelee to carry the respective libelants from Yokohama to San Francisco on board the Steamship "Mongolia," as shown by the steerage checks introduced in evidence as well as by all of the undisputed facts pertaining to the transaction.

3.

The Court erred in holding that upon the facts appearing on the trial of said causes, the weight of

evidence is entirely on the side of libelants as to the issue whether said libelants were informed by the libelee of the order of the officials of the United States Marine Hospital Service against their going ashore at Honolulu.

4.

The Court erred in finding that the libelants were not notified of the United States Marine Hospital Service regulation against going ashore at Honolulu.

5.

The Court erred in finding that upon the facts appearing on the trial of said causes, the libelee was guilty of negligence toward the respective libelants for which it is liable for the injury to the libelants resulting therefrom.

6.

The Court erred in holding that upon the facts appearing on the trial of the said causes the libelee was guilty of any negligence.

7.

The Court erred in holding that upon the facts appearing on the trial of said causes, the injury resulting to the libelants respectively as alleged in their respective libels was caused through the negligence of the libelee, or by reason of a breach of duty due the respective libelants from said libelee.

8.

The Court erred in finding that upon the facts appearing on the trial of said causes, any damage had accrued to the respective libelants.

9.

The Court erred in finding for the respective libelants and against the libelee.

10.

The Court erred in entering final decrees in favor of the respective libelants ordering that the respective libelants, Alfred Iverson, John Kennedy, Patrick Murphy, Thomas Roe and George Morrissey, have and recover of and from the libelee, and that the libelee do pay to the said respective libelants, the sum of $150.00 and their respective costs and disbursements.

11.

The Court erred in entering final decrees in favor of the libelants, Alfred Iverson, John Kennedy, Patrick Murphy, Thomas Roe and George Morrissey, or either of them.

12.

The Court erred in not making, rendering and entering final decrees in each of the above-entitled actions in favor of libelee.

13.

The Court erred in making, rendering and entering the respective final decrees in said actions upon the findings and records therein.

14.

The Court erred in making, rendering and entering its decree in each of said actions because said decrees and each of them were and are contrary to law and equity and to the facts as stated and shown in the pleadings and record in said actions.

In order that the foregoing assignment of errors may be and appear of record, said libelee-appellant files and presents the same to said Court, and prays that such disposition on behalf thereof may be made as is in accordance with law and the statutes of the United States in such cases made and provided; and said libelee-appellant prays a reversal of the said final decrees heretofore made and entered by said Court.

Dated, Honolulu, Territory of Hawaii, May 11, 1906.

PACIFIC MAIL STEAMSHIP COMPANY,
By KINNEY, McCLANAHAN & DERBY,
Its Proctors.

[Endorsed]: Title of Court and Cause. Assignment of Errors. Filed May 11th, 1906. W. B. Maling, Clerk. By F. L. Hatch, Deputy Clerk.

In the District Court of the United States in and for the District and Territory of Hawaii.

April, A. D. 1906, Term.

IN ADMIRALTY—IN PERSONAM.

Consolidated for Purposes of Appeal.

No. 62.

ALFRED IVERSON,

Libelant-Appellee,

vs.

PACIFIC MAIL STEAMSHIP COMPANY,

Libelee-Appellant.

No. 64.

JOHN KENNEDY,

Libelant-Appellee,

vs.

PACIFIC MAIL STEAMSHIP COMPANY,

Libelee-Appellant.

No. 63.

PATRICK MURPHY,

Libelant-Appellee,

vs.

PACIFIC MAIL STEAMSHIP COMPANY,

Libelee-Appellant.

No. 66.

THOMAS ROE,

Libelant-Appellee,

vs.

PACIFIC MAIL STEAMSHIP COMPANY,

Libelee-Appellant.

No. 67.

GEORGE MORRISSEY,

Libelant-Appellee,

vs.

PACIFIC MAIL STEAMSHIP COMPANY,

Libelee-Appellant.

Bond on Appeal.

Know all men by these presents; that we, Pacific Mail Steamship Company, libelee-appellant in the above-entitled suits, as principal, and W. Pfotenbauer and F. Klamp, as sureties, are held and firmly bound unto Alfred Iverson in the sum of $350.00; John Kennedy in the sum of $350.00; Patrick Murphy in the sum of $350.00; Thomas Roe in the sum of $350.00; and George Morrissey in the sum of $350.00; lawful money of the United States to be paid to the aforesaid Alfred Iverson, John Kennedy, Patrick Murphy, Thomas Roe and George Morrisey, libelants-appellees, their respective executors, administrators and assigns, to which payment well and truly to be made we bind ourselves and each of us, our and each of our respective successors, administrators, executors and assigns, jointly and severally, firmly by these presents.

Sealed with our seals and dated at the city of Honolulu, Territory of Hawaii, this 11th day of May, A. D. 1906.

Whereas the above-named Pacific Mail Steamship Company, libelee-appellant, has appealed to the United States Circuit Court of Appeals for the Ninth Circuit from the final decrees in favor of each of the respective libelants-appellees, above named, made and entered by and in said Court on the 2d day of May, A. D. 1906, in the above-entitled suits, by the above-entitled Court, praying that said decrees and each of them may be reversed;

Now, therefore, the condition of this obligation is such that if the above-named Pacific Mail Steamship Company, libelee-appellant aforesaid, shall prosecute its appeal to effect and shall answer all damages and costs to which the respective herein named libelants-appellees may be entitled, if it fails to make its appeal good, then this obligation shall be void; otherwise the same shall remain in full force and effect.

In witness whereof, the aforesaid principal and the aforesaid sureties have hereunto set their hands and seals at the city of Honolulu, Territory of Hawaii, this 11th day of May, A. D. 1906.

PACIFIC MAIL STEAMSHIP COMPANY,
Principal.

By H. HACKFELD & COMPANY, LIMITED,
Its Agent,
By F. WM. KLEBAHN,
Secretary of H. Hackfeld & Co., Ltd.

W. PFOTENHAUER. [Seal]

F. KLAMP. [Seal]

The foregoing bond is approved as to form, amount and sufficiency of sureties.

Dated, Honolulu, Territory of Hawaii, May 11, A. D. 1906.

(Signed) SANFORD B. DOLE,
Judge of the United States District Court in and for the District and Territory of Hawaii.

[Endorsed]: Title of Court and Cause. Bond on Appeal. Filed May 11th, 1906. W. B. Maling, Clerk. By F. L. Hatch, Deputy Clerk.

In the District Court of the United States in and for the District and Territory of Hawaii.

April, A. D. 1906, Term.
IN ADMIRALTY—IN PERSONAM.
Consolidation for Purposes of Trial and Appeal.

No. 62.

ALFRED IVERSON,
Libelant-Appellee,
vs.
PACIFIC MAIL STEAMSHIP COMPANY,
Libelee-Appellant.

No. 64.

JOHN KENNEDY,
Libelant-Appellee,
vs.
PACIFIC MAIL STEAMSHIP COMPANY,
Libelee-Appellant.

No. 63.

PATRICK MURPHY,

Libelant-Appellee,

vs.

PACIFIC MAIL STEAMSHIP COMPANY,

Libelee-Appellant.

No. 66.

THOMAS ROE,

Libelant-Appellee,

vs.

PACIFIC MAIL STEAMSHIP COMPANY,

Libelee-Appellant.

No. 67.

GEORGE MORRISSEY,

Libelant-Appellee,

vs.

PACIFIC MAIL STEAMSHIP COMPANY,

Libelee-Appellant.

Exception and Additional Assignment of Error.

Now comes the above-named libelee and excepts to the order of the above-entitled court made on the 12th day of May, A. D. 1906, affirming and allowing the item of $205.00 as libelee's costs and disbursements in the above-entitled suit of John Kennedy, Libelant, vs. the Pacific Mail Steamship Company, Libelee.

And said libelee having heretofore, to wit, on the 11th day of May, A. D. 1906, filed its petition on appeal to the United States Circuit Court of Appeals for the Ninth Circuit from the final decrees heretofore entered herein, together with its assignment of errors, and said petition on appeal having been allowed; it now makes, presents and files an assignment of additional error to the order of allowance aforesaid by which the taxation of said item of $205.00 is affirmed, and it prays that its exception may be allowed and its additional assignment of error be taken as incorporated in the said assignment of error now on file.

Dated, Honolulu, Territory of Hawaii, May 12, 1906.

PACIFIC MAIL STEAMSHIP COMPANY,
Libelee-Appellant.
KINNEY, McCLANAHAN & DERBY,
Its Proctors.

Allowed:

SANFORD B. DOLE,
Judge, United States District Court in and for the District and Territory of Hawaii,

[Endorsed]: Title of Court and Cause. Exception and Additional Assignment of Error. Filed May 12th, 1906. W. B. Maling, Clerk. By F. L. Hatch, Deputy Clerk.

In the District Court of the United States in and for the District and Territory of Hawaii.

Clerk's Certificate to Transcript.

United States of America,
Territory and District of Hawaii,—ss.

I, Walter B. Maling, Clerk of the District Court of the United States for the Territory of Hawaii, do hereby certify that the foregoing papers numbered from page 1 to page 451, inclusive, is a true and complete transcript of the record and proceedings had in said Court in the cases of Alfred Iverson vs. The Pacific Mail Steamship Company, No. 62; John Kennedy vs. The Pacific Mail Steamship Company, No. 64; Patrick Murphy vs. The Pacific Mail Steamship Company, No. 63; Thomas Roe vs. The Pacific Mail Steamship Company, No. 66, and George M. Morrissey vs. The Pacific Mail Steamship Company, No. 67; consolidated for purposes of trial and appeal, as the same remain of record and on file in my office, and I further certify that I hereto annex the original citation on appeal in said cause.

I further certify that the costs of the foregoing transcript of record is $114.75, and that said amount was paid by appellant.

In testimony whereof, I have hereunto set my hand and affixed the seal of said District Court, at Hono-

lulu, Territory and District of Hawaii, this 24th day of July, A. D. 1906.

[Seal] WALTER B. MALING,
Clerk.

In the District Court of the United States in and for the District and Territory of Hawaii.

April, A. D. 1906, Term.

IN ADMIRALTY—IN PERSONAM.

Consolidated for Purposes of Appeal.

No. 62.

ALFRED IVERSON,
Libelant-Appellee,

vs.

PACIFIC MAIL STEAMSHIP COMPANY,
Libelee-Appellant.

No. 64.

JOHN KENNEDY,
Libelant-Appellee,

vs.

PACIFIC MAIL STEAMSHIP COMPANY,
Libelee-Appellant.

No. 63.

PATRICK MURPHY,
Libelant-Appellee,

vs.

PACIFIC MAIL STEAMSHIP COMPANY,
Libelee-Appellant.

No. 66.

THOMAS ROE,

Libelant-Appellee,

vs.

PACIFIC MAIL STEAMSHIP COMPANY,

Libelee-Appellant.

No. 67.

GEORGE MORRISSEY,

Libelant-Appellee,

vs.

PACIFIC MAIL STEAMSHIP COMPANY,

Libelee-Appellant.

Citation.

United States of America,
District and Territory of Hawaii,—ss.

The President of the United States; To Alfred Iverson, John Kennedy, Patrick Murphy, Thomas Roe and George Morrissey and to George A. Davis, Esq., Their Proctor, Greeting:

You and each of you are hereby cited and admonished to be and appear before the United States Circuit Court of Appeals for the Ninth Circuit to be held at the city of San Francisco, in the State of California, within 30 days from the date of this citation pursuant to an appeal filed in the office of the clerk of the United States District Court in and for the District and Territory of Hawaii in the above-en-

titled proceedings, wherein the above-named Pacific Mail Steamship Company, is libelee-appellant and you are the respective libelants-appellees, to show cause, if any there be, why the respective decrees entered in the above-entitled proceedings on the 2d day of May, A. D. 1906, in said appeal mentioned and thereby appealed from, should not be corrected and reversed, and speedy justice should not be done to the parties in that behalf.

Witness the Honorable MELVILLE W. FULLER, Chief Justice of the United States of America, this 11th day of May, A. D. 1906.

SANFORD B. DOLE,

Judge of the United States District Court in and for the District and Territory of Hawaii.

[Seal] Attest: W. B. MALING,
Clerk
By F. L. Hatch,
Deputy Clerk.

[Endorsed]: No. 62. District Court of the United States for the Territory of Hawaii. Alfred Iverson, et al., vs. Pacific Mail Steamship Co. Citation. Filed May 11th, 1906. W. B. Maling, Clerk. By F. L. Hatch, Deputy Clerk.

Libelee's Exhibit "A."

Know all men by these presents, that we, Alfred Iverson, Thomas Roe, Harry Miller, Patrick Murphy, John Kennedy, George M. Morrissey, and Harry Baker, of San Francisco, State of California, now at Honolulu, have made, constituted and appointed, and by these presents do hereby make, constitute and appoint Charles F. Chillingworth, of Honolulu, attorney at law, our true and lawful attorney for us and in our name, place and stead, to commence a suit against Pacific Mail Steamship Company for damages for the breach of its contract to convey us as passengers from Yokohama in Japan to San Francisco, and to employ such counsel as he may deem necessary and to conduct the same from the issuing of the monition or other process down to final decree, and we do hereby assign and set over to him and to the Counsel of Record, one-half of the damages that may be awarded in such suit, the other one-half to be paid to us, and the said Charles F. Chillingworth agrees to have said suit conducted from the issuing of process to final decree with all concession, speed and in a proper and professional manner, and to pay over the one-half of the damages to the said parties hereto immediately after receiving the same, and give full release in our names.

Giving and granting unto our said attorney full power and authority to do and perform all and every

act and thing whatsoever requisite and necessary to be done in and about the premises, as fully to all intents and purposes as we might or could do if personally present, and to compromise and settle the suit if decree is advisable, hereby ratifying and confirming all that our said attorney, Charles F. Chillingworth, shall lawfully do or cause to be done by virtue of these presents.

In witness whereof, we have hereunto set our hand and seal the thirtieth day of October, 1905.

CHAS. F. CHILLINGWORTH.

ALFRED IVERSON. [Seal]
THOS. ROE. [Seal]
HARRY MILLER. [Seal]
PATRICK MURPHY. [Seal]
JOHN KENNEDY. [Seal]
GEO. M. MORRISSEY. [Seal]
HARRY BAKER. [Seal]

Signed, sealed and delivered in the presence of
[Seal] WILLIAM SAVIDGE.

Territory of Hawaii,
Island and County of Oahu,—ss.

On this thirty-first day of October, A. D. 1905, personally appeared before me Chas. F. Chillingworth, known to me to be one of the persons described in and who executed the foregoing instrument, who duly acknowledged to me that he executed the same freely

and voluntarily and for the uses and purposes therein set forth.

[Seal] WILLIAM SAVIDGE,

Notary Public, First Judicial Circuit, Territory of Hawaii.

County of Oahu,

Honolulu, Territory of Hawaii.

Be it remembered that on this 30th day of October, A. D. 1905, personally came and appeared before me, the undersigned Notary Public at Honolulu, Alfred Iverson, Thomas Roe, Harry Miller, Patrick Murphy, John Kennedy, Geo. M. Morrissey, and Harry Baker, known to me to be the persons described in and who executed the foregoing power of attorney, and they severally acknowledged to me that they executed the same freely and voluntarily for the uses and purposes therein set forth and contained.

In testimony whereof I have hereunto set my hand and seal at Honolulu this 30th of October, A. D. 1905.

[Seal] WILLLIAM SAVIDGE,

Notary Public, 1st Jud. Circuit, T. of H.

[Endorsed]: U. S. District Court, Hawaii, Alfred Iverson, et al., vs. Pac. Mail S. S. Co., Libelee's Ex. "A." Filed Jany. 5th, 1906. W. B. Maling Clerk. By F. L. Hatch, Deputy.

No. 1375. U. S. Circuit Court of Appeals for the Ninth Circuit. Libelee's Exhibit "A." Received Aug. 3, 1906. F. D. Monckton, Clerk. Docketed Sep. 5, 1906.

[Endorsed]: No. 1375. United States Circuit Court of Appeals for the Ninth Circuit. Pacific Mail Steamship Company, Appellant, vs. Alfred Iverson, John Kennedy, Patrick Murphy, Thomas Roe and George Morrissey, Appellees. Transcript of Record. Upon Appeal from the United States District Court for the Territory of Hawaii.

Filed September 5, 1906.

F. D. MONCKTON,
Clerk.
By Meredith Sawyer,
Deputy Clerk.